



2002 Annual Report



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2002 ANNUAL REPORT of the CITY OF RIVERSIDE COMMUNITY POLICE REVIEW COMMISSION

Introduction

This is the second annual report of the City of Riverside Community Police Review Commission. The Commission was created by city ordinance in April 2000. The original nine commissioners were selected by the City Council in the summer of 2000 and the Executive Director was hired on November 1, 2000. Setting up and organizing the Commission office and training the commissioners consumed much of the first five months and the Commission reviewed its first case in April 2001.

This report seeks to provide more than just the numbers of complaints reviewed. This initial report establishes a benchmark from which future comparisons can be made regarding the Commission's work. What the report will not do is draw conclusions from the data provided. That task is better left to police managers, city policy makers, and the citizens of Riverside.

Mission

The Community Police Review Commission was created in order to promote public confidence in the professionalism and accountability of the sworn staff of the Riverside Police Department. This is done by independently reviewing citizen complaint investigations, recommending changes in departmental policy, on-going public outreach and, when deemed appropriate by the Commission or Executive Director, conducting an independent investigation of citizen complaints.

Chairman's Message

by Jack Brewer

The Community Police Review Commission has completed its second year of operation. There have been a few changes in the membership of the Commission this year. The new members have learned the purpose and goals of the Commission quickly and have added strength and insight to the CPRC.

We have found that a great deal of time has been required to properly review the cases and then prepare a recommendation to the City Manager. The Commission takes each case seriously, knowing that they are representing the public, but at the same time they have to protect the rights of the sworn officers.

There were two major incidents in 2002 in which Riverside officers used deadly force. Independent investigations are currently being conducted by investigators employed by the CPRC.

I would like to thank the other commissioners for their efforts, which made the position of chairman much easier. I would be remiss if I didn't also mention the help and encouragement received from the Executive Director and his administrative assistant.

I believe the Commission has matured in the past year and is doing a commendable job at carrying out the mandate of the City Ordinance.


Jack Brewer, Chairperson
Community Police Review Commission

THE COMMISSIONERS

The following is a short biographical sketch of each of the current commissioners. Their first terms were staggered so that each succeeding year three commissioners would be up for reappointment. While the initial terms were two, three, and four years long, each subsequent term is for four years. Commissioners can serve two consecutive terms.

Jack Brewer is a 33-year resident of Riverside and retired after 32 years with the California Alcoholic Beverage Commission (ABC). He is a past President of the Riverside County Law Enforcement Administrators Association, past-President of the California State Investigators Association and has served as an officer with a number of other law enforcement associations and is a life member of the California Peace Officers Association. He was elected as the Community Police Review Commission's first vice-chairman. Prior to ABC, he served on several police departments and has been involved in law enforcement since 1955. **Term expires in March 2004.**

Les Davidson is a 28-year resident of Riverside and a resident of the Inland Empire for over 37 years. After working as a police officer in the City of Redlands, he became a licensed private investigator in 1971 and worked directly with the legal community in private investigations. Recognizing the need for expertise in corporate security, he went on to found USAFACT, Inc. His company employs over 60 people, making it one of the largest background screening and drug testing companies in the country. Les is a Certified Fraud Examiner and works as a private industry security consultant with numerous Fortune 500 companies. **Term expires in March 2006.**

Bill Floyd is a 20-year resident of Riverside and is a partner in the law firm of Best, Best and Krieger. He previously served on the City of Riverside Personnel Board and was chair of Best, Best and Krieger's Labor and Employment Law Department. Currently, he is an Inland Empire Board Member of the Legislative Task Force for the Employers Group and a member of the Ethics Committee of the Visiting Nurse Association of the Inland Counties. **Term expires in March 2003.***

Bob Garcia is a 43-year resident of Riverside. He was a member of the Human Relations Commission and its Law Enforcement Policy Advisory Committee, Casa Blanca Community Action Group and the Casa Blanca Youth Accountability Board, Park Advisory Committee, and Fiesta Committee at Villegas Park. **Term expires in March 2003.***

Mike Gardner is a 32-year resident of Riverside. He is retired from Southern California Edison with 23 years of service and has kept busy since his retirement by volunteering his time for a number of worthy causes and associations. Included in those volunteer activities are the Riverside City Fire Department's Disaster Preparedness Committee, Riverside Area Fire Buffs Association, and Riverside Live Steamers. In 2000, Mike was named Municipal Volunteer of the Year. **Term expires in March 2006.**

Dr. Bill Hendrick is a 13-year resident of Riverside. He is the Director of Pupil Services for the Riverside Unified School District. He is a member of the Blue Ribbon Task Force on School Violence, Past President of the California Association of Pupil Personnel Administrators, and was on the Riverside County Sheriff's Gang Violence Suppression Committee, Riverside County Board of Supervisors Drug Suppression Advisory Committee, Past President of the Riverside County Drug Free Schools Consortium, and Riverside County Medical Association's Student Health Committee. **Term expires in March 2003.***

Bill Howe is a 41-year resident of Riverside. He retired as the Chief of Police for the University of California, Riverside. Prior to that, he was a Lieutenant with the Corona Police Department and a Deputy, then Sergeant, with the Riverside Sheriff's Department. In all, he has 25 years of law enforcement experience. Additionally, he is a retired Lieutenant Colonel in the United States Air Force Reserve. He is a Past President of the Corona Host Lions Club, Past Vice-Chairman, Inland Counties Chapter March of Dimes, Past President Riverside JayCees' Toastmasters Club 130, and Past President of the Riverside County Law Enforcement Administrators Association. Bill was elected as the Community Police Review Commission's first chairman. **Term expires in March 2004.**

Gloria Huerta is a 25-year resident of Riverside. She is the E.M.S. Training Coordinator for the Riverside County Fire Department and also works as a nurse practitioner in Riverside. She is a member of the California Fire Chiefs' Association, California State Firefighters' Association, Sigma Theta Tau, American Association of Critical Care Nurses, and California Coalition of Nurse Practitioners. **Term expires in March 2004.**

Jim Ward is a 43-year resident of Riverside. Working for the State of California Department of Corrections for over 20 years, he was a Correctional Counselor when he retired in 1985. He has attended Loma Linda University and Riverside Community College, successfully completing over 30 classes related to Correctional Science. **Term expires in March 2006.**

Bill O'Meara is a 17-year resident of Riverside. He served in the Marines in the '60's and is retired from the Orange County Sheriff Department. He is a certified Alcohol and Drug counselor and worked as such in two state prisons, California Rehabilitation Center and Chino. He works part time as an anger management and drug counselor at several group homes for high-risk minors. He is a member of the Riverside Youth Accountability Board. He also facilitates a recovery program and marriage program through his church. He is a past member of "TIP", (Trauma Intervention Program) and Project Michael. **Alternate Commissioner**

***Council has approved reappointment. Term expires in March 2007.**

HOW THE COMPLAINT SYSTEM WORKS

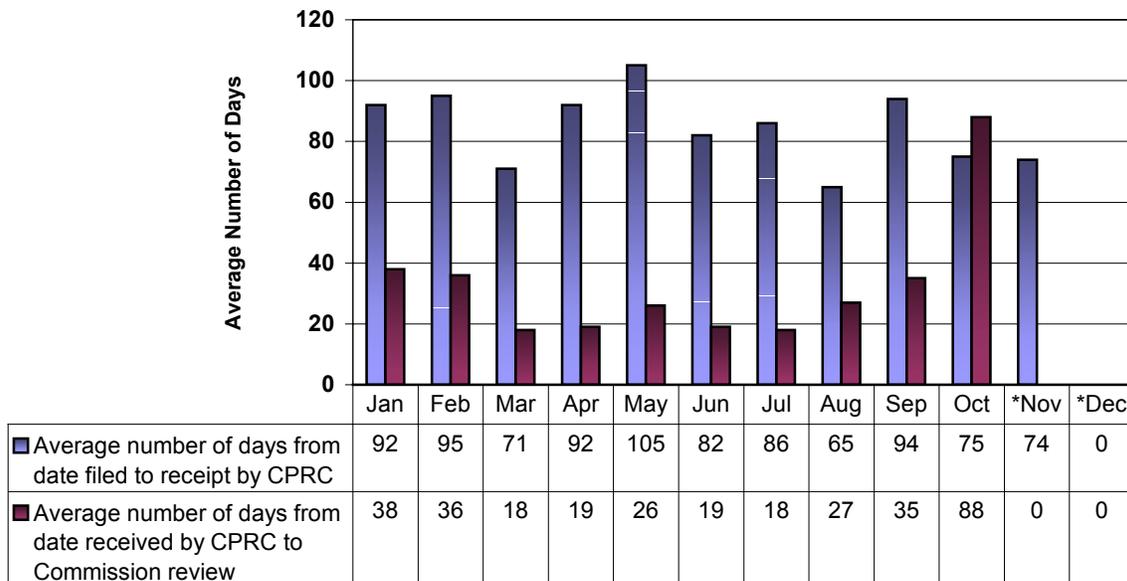
The complaint process is activated when someone files a complaint against a member of the Riverside Police Department. While the Internal Affairs Unit or their designee investigates all complaints, the Community Police Review Commission (CPRC.) will review only those complaints filed against sworn personnel and that are filed within six months of the incident that gave rise to the complaint.

Typically, all a person has to do to file a complaint is to contact the Riverside Police Department by phone or contact a member of the Department in person. If a complainant is uncomfortable going directly to the Department or a Department member, they may contact the CPRC. Either way, the complaint is logged in at both the Internal Affairs Unit and the CPRC and the tracking process begins.

The Internal Affairs Unit categorizes the complaint as Class I (usually the most serious complaints) or Class II. They are then assigned to an investigator. The sergeants in the Internal Affairs Unit handle all Class I complaints and a few Class II. The vast majorities of complaints investigated by the Department are Class II and are investigated by supervisors in the Field Operations or Investigations Divisions.

After the investigation is complete, the investigator's lieutenant, captain and deputy chief review it. Following that the captain of the Personnel Services Division and the lieutenant over the Internal Affairs Unit conduct a final department review. After the Department completes its administrative procedures, the case is then sent to the CPRC for review.

Case Tracking



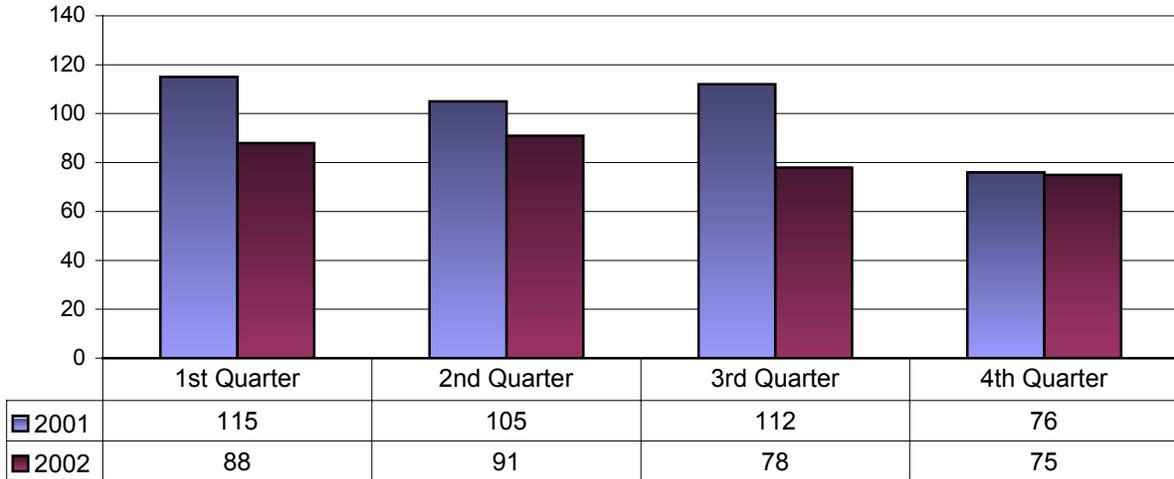
* Case review was deferred in November and December while concerns raised by the RPOA (Riverside Police Officers' Association) were evaluated.

CASE TRACKING COMPARISONS

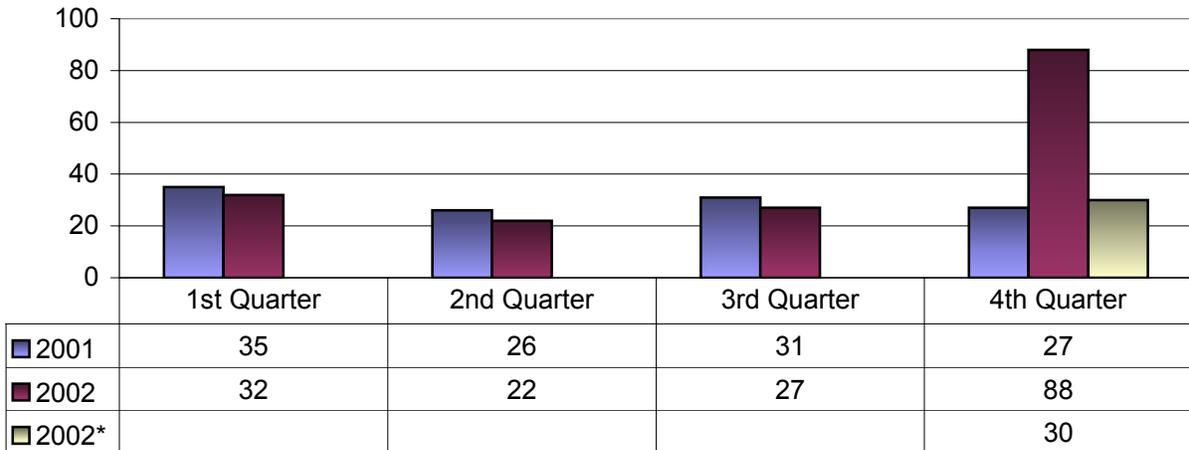
In November 2000, a Riverside police officer and a concerned citizen brought to the Commission's attention concerns about the length of time it took to complete Internal Affairs investigations. When the Commission became operational in January 2001, a case tracking mechanism was instituted. In March 2001 the CPRC began generating and forwarding monthly reports to the Police Chief. The Police Chief instituted changes to address the problem and the effect of those changes can be seen on the comparison charts on the following page.

Riverside Police Department Policy and Procedure 4.12 D 5 & 6 was rewritten and established new goals for the completion of Class I and Class II investigations. Class I investigations should be completed within sixty (60) calendar days plus five (5) calendar days to submit the investigation with the Memorandum of Finding to the Internal Affairs Unit. Class II investigations should be completed within thirty (30) calendar days plus five (5) days for the Division Commander to submit the report with the Memorandum of Finding to the Internal Affairs Unit.

**2001 / 2002 Comparison:
Average Number of Days from
Date Filed to Receipt by CPRC**



**2001 / 2002 Comparison:
Average Number of Days from Date Received from IA to
Date Reviewed by CPRC**



* Case review was deferred in November and December while concerns raised by the RPOA (Riverside Police Officers' Association) were evaluated.

THE CPRC REVIEW PROCESS

All cases are entered into the CPRC tracking system when they are filed. When the CPRC receives the investigative report, it is logged in and then reviewed for thoroughness by the Executive Director. The Riverside Police Department Conduct & Performance Manual, Section 10, Administrative Investigation, is the guideline for this review. After the Executive Director's review, the reports are placed on one of two monthly meeting agendas (Regular Monthly Meeting or Case Review Meeting) and a brief synopsis of the report is given to the commissioners. The commissioners come into the office and review the cases prior to the meetings and then, in the closed session portion of the meetings, deliberate and make a "Finding" on each allegation in each case. Along with the finding they issue a "Rationale" that describes their reasons for the finding. In addition to describing their reasoning, the commissioners also use the "Rationale" to inform the Police Chief and his subordinates when they have a particular policy issue or concern they want to address.

After the findings and rationales are given on each allegation in each case, the cases are sent to the City Manager who, after reviewing the findings of the Commission and the Police Department, issues the decision on behalf of the City. That decision, which may or may not concur with either set of recommendations, then becomes the City's position and all parties to the complaint are notified of the results. If the City's position contains a "Sustained" finding, the Police Chief, exclusively, determines what discipline to impose.

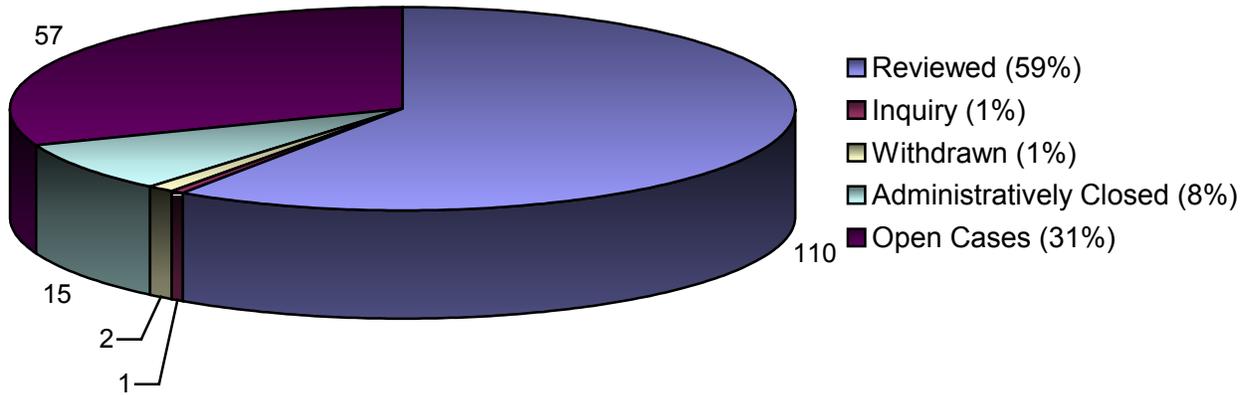
From January 1 to December 31, 2002, the Community Police Review Commission received 130 new cases. During that time period, the Commission reviewed 109 cases, which included several cases that were holdovers from 2001. At the close of 2002, there were 57 cases still in the investigative stage, and 17 were disposed of by other means.

Since January 1, 2001, when the Commission became operational, through December 31, 2002, a total of 313 cases were reviewed, which included 446 allegations. Of the 446 allegations reviewed, the RPD and CPRC made identical recommendations in 293 (64%). These statistics compare favorably to similar statistics from Knoxville, Tennessee, and Portland, Oregon.

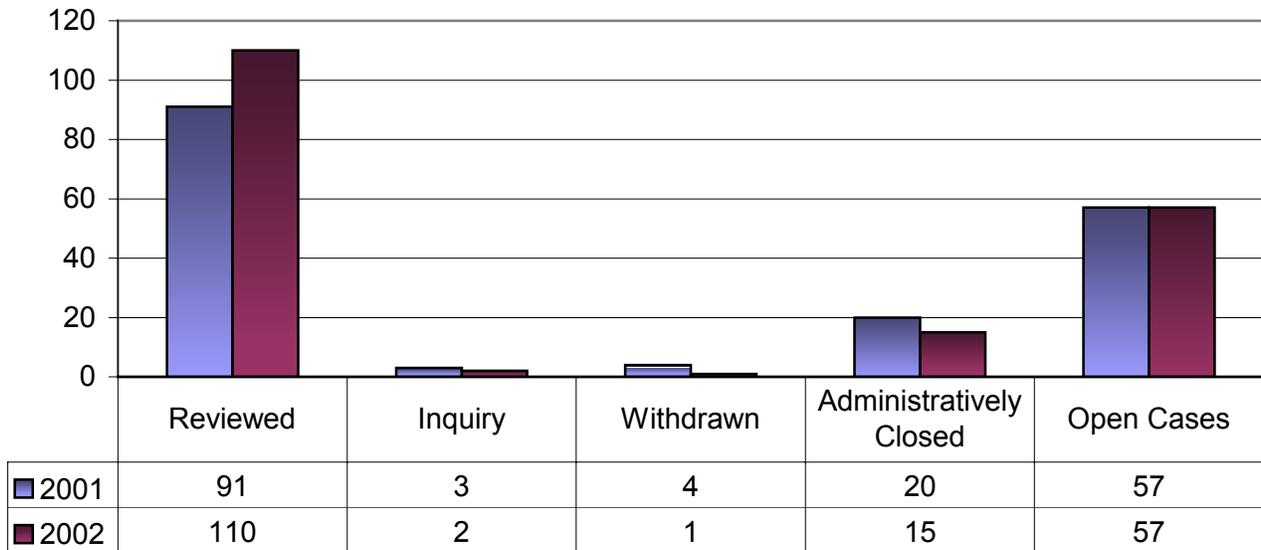
Of the 153 allegations where the recommendations of the RPD and CPRC differed, only 15 involved "Sustained" recommendations. The City Manager ruled that of those 15 "Sustained" recommendations, four should be upheld as "Sustained." The other 11 were downgraded or modified.

The following charts and graphs depict the activity relative to the cases.

2002 Caseload

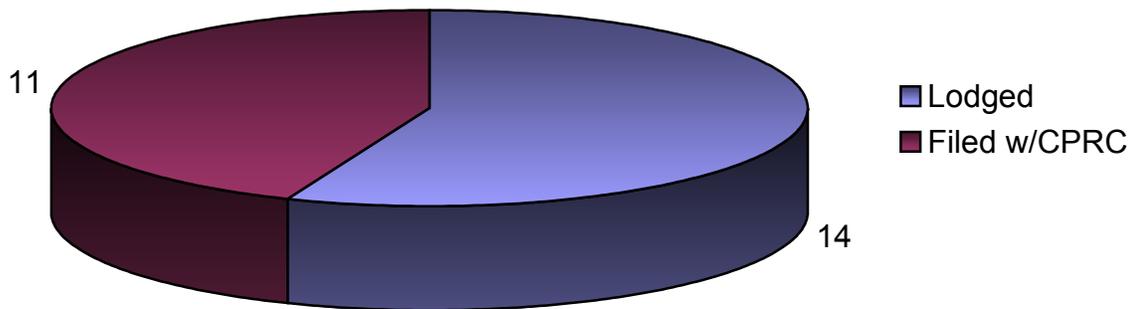


Caseload Comparison

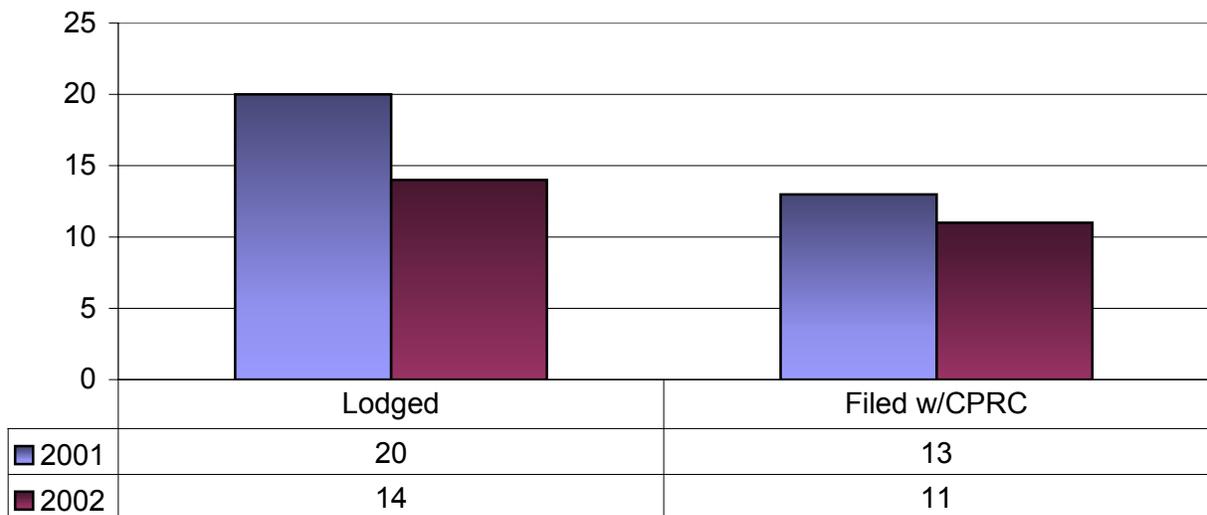


A case is considered “lodged” when a person notifies the CPRC that they wish to file a complaint. The case is not considered “filed” until the completed complaint form is received in the CPRC offices. There were 25 cases lodged with the Commission in 2002. Of those 25 cases, 11 were actually filed as complaints. In the other 14 cases, the complainants failed to return the completed forms.

Cases Lodged vs. Cases Lodged and Filed



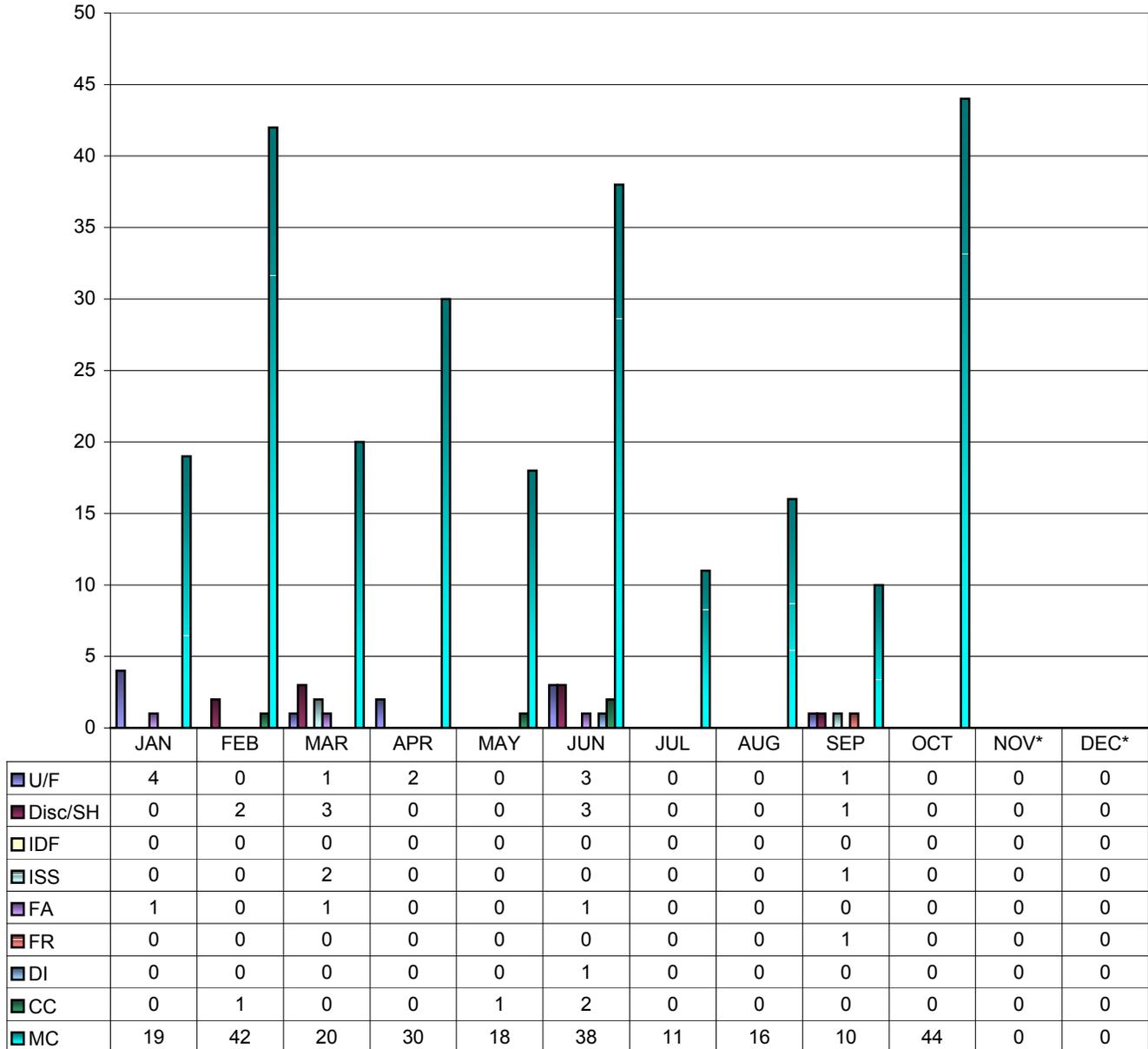
Cases Lodged vs. Cases Lodged and Filed: Comparison of 2001 - 2001



ALLEGATIONS AND FINDINGS

The following charts describe the types of allegations and their findings.

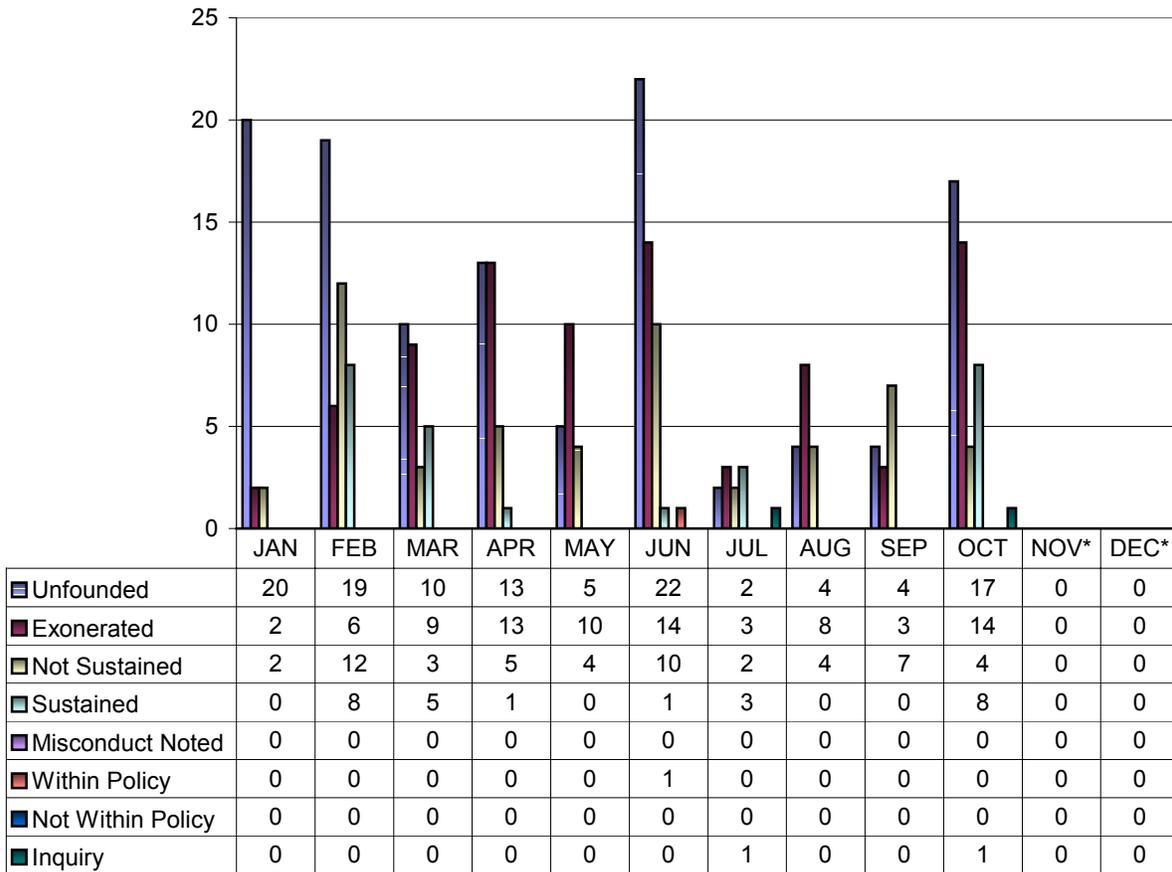
Allegations



U/F = Use of Force, **Disc/SH** = Discrimination/Sexual Harassment,
IDF = Improper Discharge of Firearms, **ISS** = Illegal Search or Seizure, **FA** = False Arrest,
FR = False Reporting, **CC** = Criminal Conduct, **MC** = Misconduct; **DI** = Death Investigation

* Case review was deferred in November and December while concerns raised by the RPOA (Riverside Police Officers' Association) were evaluated.

Findings



***The case review process was suspended in November and December due to previously noted procedural concerns.**

The findings are listed in RPD Policy & Procedure 4.12, Personnel Complaint Policy, Section B4.

Unfounded = The alleged act did not occur.

Exonerated = The alleged act occurred but was justified, legal and proper.

Not Sustained = The investigation produced insufficient information to prove or disprove the allegation.

Sustained = The Department member committed all or part of the alleged acts of misconduct or poor service.

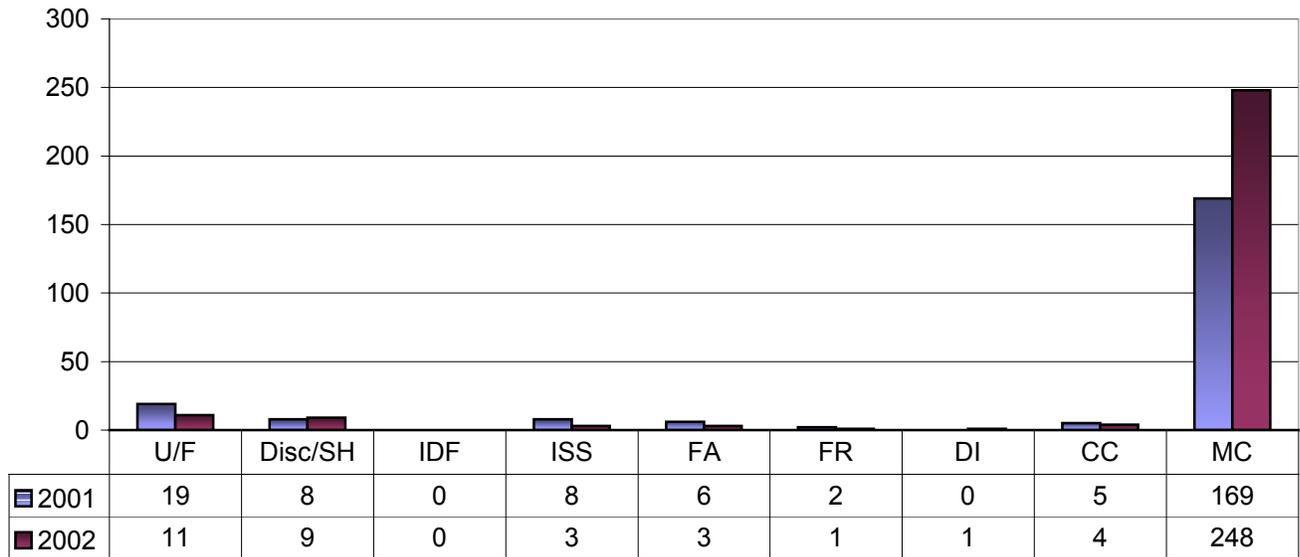
Misconduct Noted = The Department member violated a section of the Department Policies, Rules or Regulations not originally noted in the complaint.

Within / Not Within Policy = When reviewing an officer-involved death, the Commission makes a finding of "Within" or "Not Within" RPD policy.

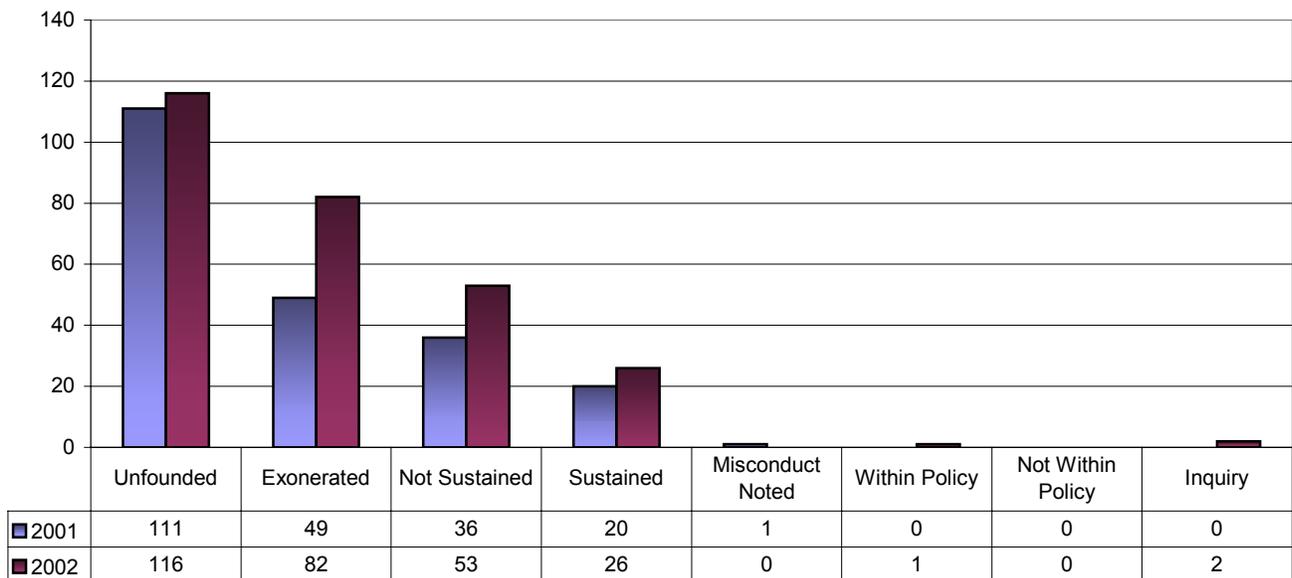
Inquiry = During the process of the investigation, it was determined that the member of the public was only requesting clarification of a policy or procedure.

The following charts show comparisons between 2001 and 2002 allegations and findings.

Allegations Comparison: 2001 - 2002

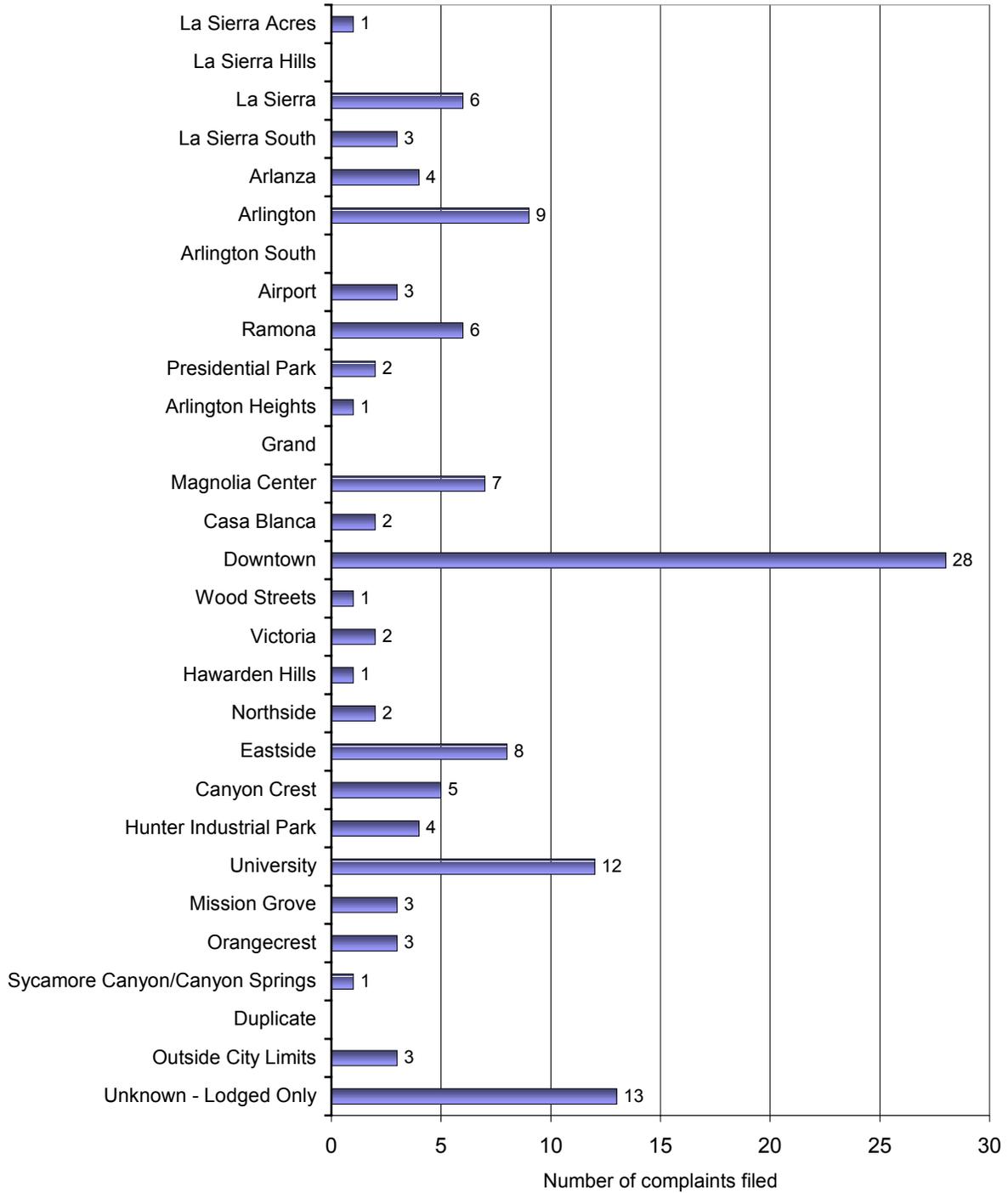


Findings Comparison: 2001 - 2002



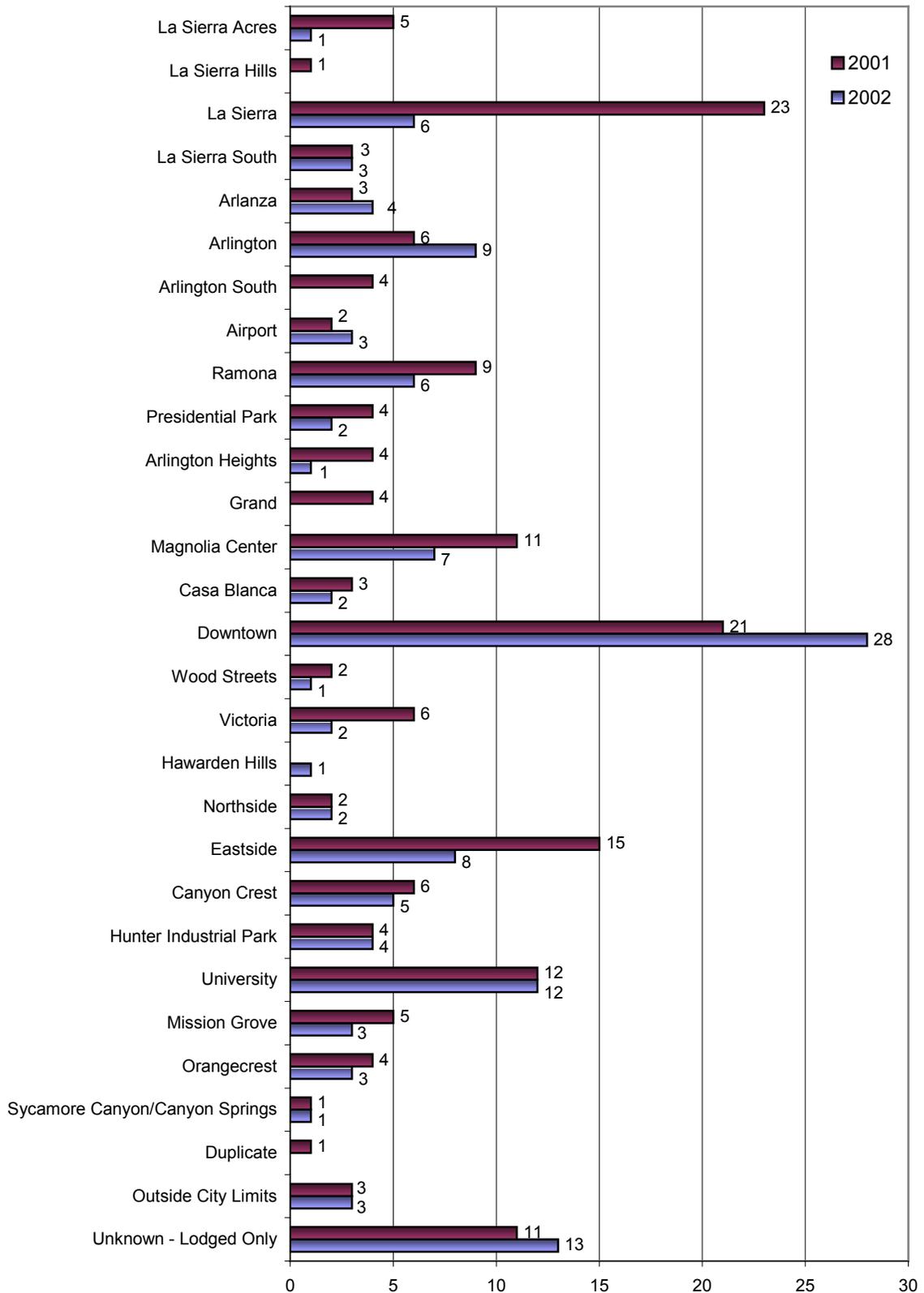
The following chart lists the neighborhoods where the alleged incidents of misconduct occurred in 2002.

Complaints by Neighborhood



This chart compares the cases per neighborhood from 2001 to 2002.

Complaints by Neighborhood: Comparison of 2001 - 2002

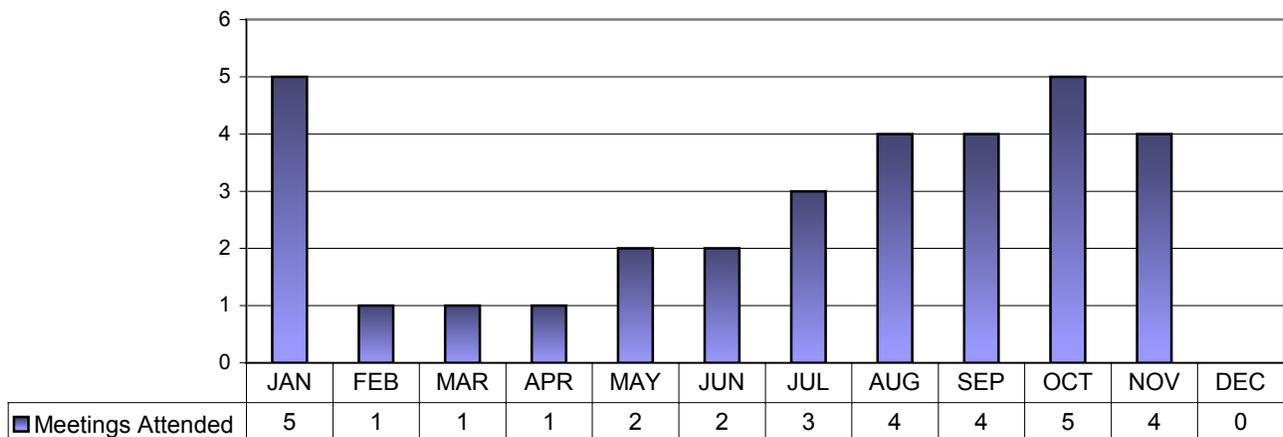


COMMUNITY OUTREACH

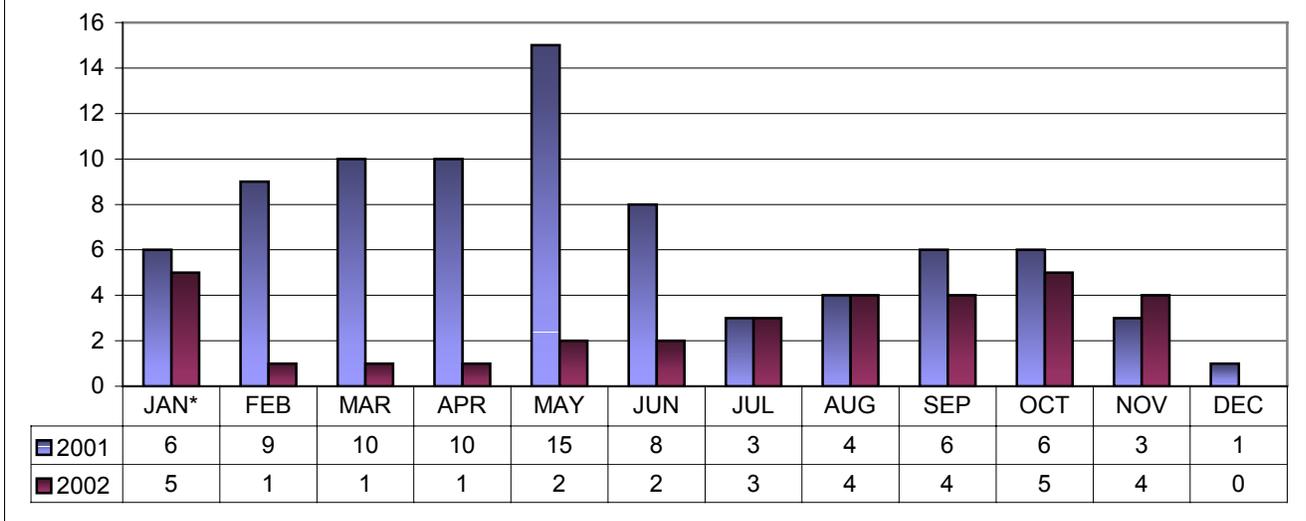
The Community Police Review Commission conducts public outreach using a number of forums. The Executive Director and commissioners attended a total of 32 meetings in 2002. The following chart shows a monthly breakdown of those meetings.

In addition to attending meetings, the Commission has a website (www.riverside-ca.org/cprc). Letters and pamphlets are also distributed in order to meet its outreach commitment.

Meetings Attended in 2002



Meetings Attended: Comparison of 2001 - 2002



*January '01 includes meetings attended in November and December 2000.

REVIEW OF OFFICER-INVOLVED DEATHS

Chapter 2.76, Section 2.76.050 Powers, Duties and Functions states: Powers, duties and functions of the Community Police Review Commission are as follows:

D. To review and investigate the death of any individual arising out of or in connection with actions of a sworn police officer, regardless of whether a complaint regarding such death has been filed.

Pursuant to this subsection, the Commission investigated and reviewed three officer-involved deaths. One death occurred in 2001 and was ruled "Justified" in 2002. The other two, which occurred in 2002, were still pending at year's end.

CPRC BUDGET

<u>Description</u>	<u>2002 / 2003</u>
Personnel	\$ 164,778
Non-Personnel	93,276
Equipment Outlay	0
<u>Charges from Others</u>	<u>28,278</u>
TOTAL	\$ 286,332

The 2002 / 2003 budget increased 10% over the 2001 / 2002 budget.

TRENDS AND PATTERNS

The Riverside Police Department has literally hundreds of citizen contacts each day. Some are brief. Some are long. Some, such as rendering assistance, are positive for the citizen and some, such as citations and arrests, are less positive. The low number of complaints per contact speaks well of the professionalism and character of the Department and its employees.

In the course of its case review duties, the Commission has detected three trends or patterns of officer behavior, which the commissioners believe should be focused on for improvement. This is not to say that all officers do any of these things on a regular basis. Rather, some officers sometimes do these things. The Commission believes that if the Department as a whole can work on these areas, community relations will be further enhanced.

Civility

As enunciated in the Chairman's report to the City Council in October 2002, the Commission has noticed that many complaints were initiated because of the way the complainants were treated by the officers. While the Commission believes that the treatment does not rise to the level of discourtesy, this perceived lack of civility often leads to complaints about the procedures used by the officers or other non-courtesy related allegations.

Additionally, the Commission feels that if officers were to offer an explanation when they intend to conduct a patdown search or offer an apology and explanation following a stop of the wrong person, they would go a long way toward improving community relations and avoiding complaints.

Patdown Searches

The commissioners have concerns about certain aspects regarding patdown searches performed by RPD officers. The concerns center on officers articulating their reasonable suspicion that the search was necessary, the follow-up questioning by supervisors conducting investigations and the training. Those concerns have been documented in detail and forwarded to the City Manager and Police Chief for their review.

Quality of Complaint Investigations

The Commission has noticed a marked increase in the quality of investigations and reports conducted by the Internal Affairs Division. However, substantial portions of the investigations conducted by field sergeants are neither thorough nor impartial. For instance they often ask leading questions such as, "You did that for officer safety reasons, correct?" rather than, "Why did you..." or "What did you do then?" Also, there is often a failure to ask, what seems to the Commission, obvious questions when interviewing complainants, witnesses and subject officers.

The Department has instituted a program of rotating field sergeants through Internal Affairs to increase knowledge and skill in conducting complaint investigations and report preparation. This will prove helpful, we think, in the long term, but more needs to be done to educate field sergeants in the short term. Complaint investigations need to be full, fair and impartial. The job of the investigator is not to vindicate the subject officer or the complainant, but to determine what actually happened and whether or not there was a violation of RPD policy.

Use of Technology

In April 2002, the Department implemented RPD Policy 4.60 regarding the use of audio recorders by police officers for all officer-initiated contacts. The recorded documentation has provided definitive information for many case reviews. The Commission has reviewed a few cases in which they would have had a clearer understanding of the situation encountered by the officer(s) had they made use of their audio recorder(s).

The ability for commissioners to review an audio recording of the actual interaction between the complainant and the officer(s) has vindicated officers on several occasions. The Commission believes that a broader use of audio recorders can provide clarity on all police-citizen contacts.

The anticipated installation and utilization of video recorders in police cars can only enhance the review process. The Commission hopes that video recordings will be available in 2003.

POLICY RECOMMENDATIONS

The following three recommendations were made to the Police Department in 2002. The reason for the recommendations and action taken are also given.

- 1. Background:** The Community Police Review Commission reviewed a case in which one of the officers involved was engaged in an ongoing Problem Oriented Policing (P.O.P.) project that he had initiated. While the officer's initiative was laudable, his tactics led to at least two citizen complaints and ultimately resulted in his supervisors having to take a more active role in his project. During the review of one of the complaint cases, the Commission found that the Department had nothing in writing on file regarding the project proposal and that the proposal was submitted by the officer in verbal form and any approval was verbal.

Recommendation(s):

- The Community Police Review Commission recommends that the Riverside Police Department adopt a policy whereby P.O.P. project proposals are submitted, in writing, and are given supervisory approval before being initiated. While the Commission leaves the elements of the proposal to the Department, the Commission suggests that the proposal include the following:
 - a. Reason for the proposed project
 - b. Goal of the project
 - c. Law or laws to be used in taking enforcement action
 - d. Tactics to be used
 - e. Length of project
 - f. Resources to be used (time away from other duties, manpower, overtime)
 - g. Projected cost
 - h. Community feedback (if applicable)

The Commission leaves to the Department the level of supervision required to approve the project. The Commission also believes that there should be a monitoring mechanism established and that there be a periodic reporting of the project's results, as defined by the Department.

Police Department Response:

A Field Operations Division order was developed and disseminated to memorialize the procedure for implementing and tracking Problem Oriented Policing projects.

- 2. Background:** As a result of an investigation into a citizen's complaint, it was found that officers, from time to time, meet one-on-one with members of the opposite sex for purposes of interviewing, taking photographs, or other official purposes. When officers meet one-on-one like that, they are exposed to accusations of misconduct that may or may not have occurred. While the Commission recognizes that one-on-one exchanges cannot always be avoided, it is believed that steps should be taken to remind officers to try and avoid placing themselves in a compromising position.

Recommendation:

- The Commission believes that the Department should modify all existing policies that pertain to interviewing victims or witnesses or photographing them to remind officers that, whenever possible, they should have another officer or a family member present to avoid being placed in a compromising situation. If modifying the policy and procedures to include this admonishment is deemed impractical, the Commission asks that the Department make the admonishment via roll call training or a training bulletin.

Police Department Response:

The Personnel and Training Division published a training bulleting reminding officers to exercise caution regarding this issue. The bulletin was discussed in detail by the Watch Commander during roll calls and by Bureau Commanders during staff meetings.

- 3. Background:** As a result of an investigation into a citizen's complaint, it was found that officers are not required to write a supplemental report when they make contact with a runaway and do not take the runaway into custody. In this particular case, the officer was advised that one of the juveniles he had just released was a runaway. When he went back to the release site, no one was there. He did contact his supervisor but he did not write a report, so investigators had no idea that the contact had been made, where the runaway was last seen and with whom the runaway had been seen.

Recommendation:

- The Commission recommends that the Police Department amend all applicable policies to require officers to write a report when they have information that relates to a runaway situation.

Police Department Response:

The Commission is waiting for a response from RPD as to whether or not this recommendation will be adopted.

Appendix

City of Riverside Ordinance No. 6516	Section A
CPRC By-Laws and Policies & Procedures	Section B
RPD Policy & Procedure 4.12	Section C
RPD Conduct & Performance Manual Section 10 – Administrative Investigation	Section D

Section A

1 the Commission and be responsible for maintaining all records and minutes.

2 **Section 2.76.040 Membership and Terms of Community Police Review**

3 **Commission.**

4 The Community Police Review Commission shall consist of nine (9) members appointed
5 by the Mayor and City Council. Members shall be removed from the Commission by five (5)
6 affirmative votes of the Mayor and City Council for incompetence, malfeasance, misfeasance,
7 nonfeasance or neglect of duty.

8 The term of each member of the Commission shall be for four years; provided, however,
9 the initial appointments of the first nine members after the effective date of this Chapter, shall be
10 determined by a drawing at the Commissions' first meeting to decide which members shall serve
11 two, three and four year terms; three shall serve two year terms, three shall serve three year terms
12 and three shall serve four year terms. The members first appointed to serve two year terms shall
13 serve until March 1, 2002; the members first appointed to serve three year terms shall serve until
14 March 1, 2003, and the members first appointed to serve four year terms shall serve until March 1,
15 2004. No person shall serve more than two full terms. Serving more than one (1) year of an
16 unexpired term shall be counted as service of one full term.

17 **Section 2.76.050 Powers, Duties and Functions**

18 The powers, duties and functions of the Community Police Review Commission are as
19 follows:

- 20 A. To advise the Mayor and City Council on all police/community relations issues.
21 B. To conduct public outreach to educate the community on the purpose of the
22 Commission.
23 C. To receive, and in its discretion, review and investigate, through the Executive
24 Director, complaints filed within six (6) months of the date of the alleged police
25 employee misconduct, in writing with the Commission or any other City office,
26 which allege persons employed by the Riverside Police Department in a sworn
27 capacity with, but not limited to (a) use of excessive force, (b) discrimination or

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sexual harassment in respect to members of the public, (c) the improper discharge of firearms, (d) illegal search or seizure, (e) false arrest, (f) false reporting, (g) criminal conduct, (h) misconduct. "Misconduct" is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a specific community member by reason of:

1. Alleged violation of any general, standing or special orders or guidelines of the Riverside Police Department, or
 2. An alleged violation of any state or federal law that occur in the course and scope of employment, or
 3. Any act otherwise evidencing improper or unbecoming conduct by a sworn police officer employed by the Riverside Police Department.
- D. To review and investigate the death of any individual arising out of or in connection with actions of a sworn police officer, regardless of whether a complaint regarding such death has been filed.
- E. To conduct a hearing on filed complaints or Commission initiated investigations when such hearing, in the discretion of the Commission, will facilitate the fact finding process.
- F. To the extent permissible by law, exercise the power of subpoena to require the attendance of witnesses, including persons employed by the City of Riverside, and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses and to take testimony. Subpoenas shall only be issued by the Commission upon the affirmative vote of six (6) Commission members.
- G. To make findings concerning allegations contained in the filed complaint to the City Manager and Police Chief.
- H. To review and advise the Police Department in matters pertaining to police policies and practices.

1 I. To prepare and submit an annual report to the Mayor and City Council on
2 Commission activities.

3 **Section 2.76.060 Confidentiality**

4 All personnel records, investigative reports, documents generated within the City of
5 Riverside Police Department, information relating to closed session deliberations of the
6 Commission, and any other privileged matters, shall be kept confidential to the extent permitted by
7 law.

8 The hearing process shall be open to the public to the extent legally permissible and
9 insofar as it does not conflict with state or federal law.

10 **Section 2.76.070 Severability**

11 If any provision of this Ordinance or its application is held invalid by a court of
12 competent jurisdiction, such invalidity shall not affect other provisions, sections, or application of
13 the Ordinance which can be given effect without the invalid provisions or applications, and to this
14 end any phrase, section, sentence, or word is declared severable.

15 Section 2: The City Clerk shall certify to the adoption of this ordinance and cause
16 publication once in a newspaper of general circulation in accordance with Section 414 of the
17 Charter of the City of Riverside. This ordinance shall become effective on the 30th day after the
18 date of its adoption.

19 ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk
20 this 11th day of April, 2000.

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22 
23 Mayor of the City of Riverside

24 Attest:

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27 City Clerk of the City of Riverside

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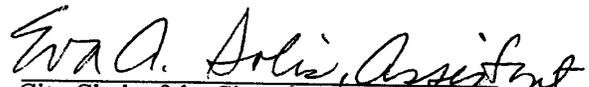
I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 4th day of March, 2000, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the 11th day of April, 2000, by the following vote, to wit:

Ayes: Councilmembers Beaty, Moore, Defenbaugh, Kane, Adkison,
Thompson and Pearson.

Noes: None.

Absent: None.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Riverside, California, this 11th day of April, 2000.


City Clerk of the City of Riverside

[ORD/00049001.SY]

Section B

**CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION**

**BY-LAWS
Amended September 24, 2001**

**ARTICLE I
DEFINITION**

- Section 1. As used in these by-laws, unless a different meaning clearly appears from the context:
- A. "Commission" shall mean the City of Riverside Community Police Review Commission (CPRC).
 - B. "Commissioners" shall mean the members of the Commission.
 - C. "Executive Director" shall mean the staff liaison person who is appointed by the City Manager to direct the Commission's staff support team.
 - D. "Independent Investigator" shall mean the person(s) retained by the Executive Director to receive, administer, and/or investigate, at the direction of the Commission, allegations of police misconduct.
 - E. "City" shall mean the City of Riverside

**ARTICLE II
MEMBERS**

- Section 1. The Commission shall be comprised of nine (9) members appointed by the Mayor and the City Council, in accordance with City Ordinance No. 6516, as codified in Chapter 2.76 of the Riverside Municipal Code.
- Section 2. Appointments to fill unexpired terms on the Commission shall be filled in the same manner as original appointments.
- Section 3. Each member must be a qualified elector of the City at the time of appointment and throughout his/her service on the Commission.
- Section 4. Members who fail to maintain qualified elector status must resign from the Commission or be removed in accordance with City Charter Section 802.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

ARTICLE III

TERMS OF OFFICE

- Section 1. The term of office shall be four (4) years. No member shall serve more than two (2) full consecutive terms. Serving less than one (1) year of an unexpired term shall not be counted as service of one term.
- Section 2. In the event that a replacement member has not been appointed when the term of office of an incumbent member expires, the incumbent member may continue to serve until a replacement is appointed.
- Section 3. Members may be removed from the Commission by an affirmative vote of five (5) members of the City Council, with the Mayor entitled to a vote, for the following causes:
- A. Absence from three consecutive regular meetings, unless by permission of the Commission expressed in the official minutes.
 - B. Incompetence, malfeasance, misfeasance, nonfeasance, neglect of duty, or conviction of a crime involving moral turpitude.
 - C. Refusal to resign from the Commission when no longer a qualified elector of the City.
 - D. Failure to comply with the confidentiality requirements described in Section 2.76.060.

ARTICLE IV

COMPENSATION

- Section 1. Members shall serve without compensation for their services on the Commission but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.

ARTICLE V

OFFICERS

- Section 1. The Commission shall have at least two officers, Chair and Vice-Chair, and such other officers, as it deems necessary.
- Section 2. The Chair shall preside over all meetings of the Commission and shall have the same rights as other members, except the Chair shall not make or second a motion. The Chair shall have the right to vote on all matters. The Chair shall sign all documents on behalf of the Commission after such documents have been approved by the Commission, and shall

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

perform such other duties and delegated responsibilities as may be imposed upon the Chair by the Commission. The Chair shall also speak to the media on behalf of the Commission on official actions of the Commission.

- Section 3. In the absence of the Chair, the Vice-Chair shall assume all the duties and power of the Chair. In the absence of the Chair, all actions taken by the Vice-Chair shall have the same force and effect as if taken by the Chair.
- Section 4. The election of officers shall be conducted annually at the first meeting in March.
- Section 5. All officers shall be elected by the members for a term of one year. A member may serve no more than two successive years in the same office.
- Section 6. Election of officers shall be conducted in a manner prescribed by the Commission.
- Section 7. In the event of the resignation or removal of the Chair during the year, the Vice-Chair shall become the Chair and a new election shall be held for Vice-Chair. In the event of the resignation or removal of any other officer, a new election shall be held to fill the vacant office.
- Section 8. If the Chair and Vice-Chair are both absent at any meeting of the Commission, the Commission shall elect a Chair Pro Tem who shall perform all duties of the Chair.

ARTICLE VI

AUTHORITY, POWERS, DUTIES

- Section 1. In accordance with Chapter 2.76 of the Riverside Municipal Code, the Commission shall have the power to:
- A. Advise the Mayor and City Council on all police/community-relations issues.
 - B. Conduct public outreach to educate the community on the purpose of the Commission.
 - C. Receive complaints of alleged police misconduct filed within six months of the date of the alleged misconduct against a sworn member of the Riverside Police Department, regarding use of excessive force, discrimination or sexual harassment in respect to members of the public, the improper discharge of firearms, illegal

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

search or seizure, false arrest, false reporting, criminal conduct or misconduct.

- D. Review and investigate complaints of alleged police misconduct.
- E. Conduct hearings into allegations of police misconduct upon the affirmative vote of five (5) Commission members.
- F. The extent permissible by law, subpoena and require the attendance of witnesses, the production of books, documents, papers, audio, video and any other electronic media pertinent to the investigation, upon the affirmative vote of six (6) Commission members.
- G. To review and advise the Police Department in matters pertaining to police policies and practices, including making formal recommendation for amendment to the Police Department's Policy and Procedures Manual and on Police Department proposed amendments to the Policy and Procedures Manual.
- H. Administer oaths to witnesses and to take testimony, which will be recorded verbatim.
- I. Submit written findings concerning allegations contained in the filed complaint to the City Manager and the Police Chief.
- J. Review and investigate the death of any individual arising out of or in connection with actions of a sworn police officer, regardless of whether a complaint regarding such death has been filed.
- K. Review and advise the Police Department in matters pertaining to police policies and practices.
- L. Recommend to the City Manager the provision of such staff as is necessary to carry out the Commission's duties.
- M. Advise the City Manager regarding the performance of said staff.
- N. Submit to the Mayor and City Council an annual written report of its activities during the past year.

Section 2. These by-laws do not, and are not intended to, exceed the powers given to the Commission by the City Charter, City ordinances, or resolutions.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

ARTICLE VII MEETINGS

- Section 1. Regular meetings of the Commission shall be held on the fourth Monday of each month at 6:00 p.m. in the Art Pick Council Chambers, 3900 Main Street, unless otherwise agreed upon in advance by the Commission.
- Section 2. Special meetings of the Commission may be convened at the call of the Chair, or of the Vice-Chair in the absence of the Chair. Upon petition of five (5) members of the Commission, the Chair shall be required to call a meeting of the Commission within one week. Members will be given at least 24 hours notice before any special meeting. The notice and agenda for any special meeting will be distributed in accordance with Brown Act, §54950 et seq. of the California Government Code.
- Section 3. All meetings of the Commission and its standing committees shall be open to the public and, whenever possible shall be held in a City-owned facility. Notice shall be given to the public prior to convening of any meeting in accordance with the Brown Act, §54950 et seq. of the California Government Code.
- Section 4. Notwithstanding Section 3 above, the Commission may schedule closed session meetings for the sole purpose of considering cases and making related findings. The notice and agenda for such Case Review Meetings shall be distributed in the same manner as the notice and agenda for all other commission meetings. Case Review meetings will not be open to the public, and public comment will not be heard at these meetings.
- Section 5. A majority of all members of the Commission shall constitute a quorum for the transaction of business. A motion shall carry upon the affirmative vote of the majority of the members present at any meeting except as otherwise noted in the Commission's Policies and Procedures or By-Laws.
- Section 6. A quorum being present, the order of business at the meetings of the Commission may include the following:
- A. Roll Call
 - B. Minutes of Previous Meeting
 - C. Executive Director's Report
 - D. Chair's Report
 - E. Committee Reports
 - F. Public Comment

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COMMUNITY POLICE REVIEW COMMISSION

- G. Unfinished Business
- H. New Business
- I. Next Meeting
- J. Recess to personnel or closed session if required
- K. Adjournment

The Executive Director or any Commissioner shall have the right to place an item on the agenda of a future meeting.

- Section 7. A Commission meeting may be cancelled by the Chair, due to a lack of a quorum or lack of sufficient agenda voting items.
- Section 8. Minutes of each Commission meeting shall be kept on file in the Commission's offices, and copies sent to the Mayor, City Councilmembers and City Manager.
- Section 9. The Commission may promulgate such rules, regulations, policies, and procedures for its conduct, as it deems necessary. Meetings shall be conducted informally.
- Section 10. All adopted rules, regulations, policies, and procedures shall be promptly filed with the City Clerk, and shall bear the signature of the Chair and the date they were adopted.
- Section 11. The annual meeting shall be the March meeting.
- Section 12. Special Commissioner training meetings shall be conducted at sites to be determined. Appropriate notices shall be posted in accordance with the Brown Act.
- Section 13. It is recommended that Commissioners attend at least one training day every other year, as needed, and one ride-along and sit-along in their first year of appointment, if possible.
- Section 14. New Commissioners shall be required to attend an orientation meeting upon their appointment.

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COMMUNITY POLICE REVIEW COMMISSION

ARTICLE VIII

INVESTIGATIONS AND HEARINGS

- Section 1. Investigations and hearings shall be conducted in accordance with the Policies and Procedures for processing complaints against police officers adopted by the Commission.
- Section 2. The hearing process shall be open to the public to the extent permitted by law and insofar as it does not conflict with state or federal law, as set forth in Section 2.76.060.
- Section 3. Investigations and hearings shall be conducted to determine facts and to make recommendations to the City Manager and Police Chief.
- Section 4. Hearings shall be scheduled as needed.

ARTICLE IX

CONFIDENTIALITY

- Section 1. All personnel records, investigative reports, documents generated within the Riverside Police Department, information relating to closed session deliberations of the Commission, and any other privileged matters, shall be kept confidential to the extent permitted by law.

ARTICLE X

COMMITTEES

- Section 1. The Chair may appoint standing committees, which shall consist of an appointed Chairperson and at least two other Commissioners.
- Section 2. The Chair may appoint ad hoc committees as needed. Each shall consist of an appointed Chairperson and at least two other Commissioners. Ad hoc committees serve a limited or single purpose, are not perpetual, and are dissolved once their specific task is completed.
- Section 3. The elected Chair shall be an ex-officio member of all committees.

ARTICLE XI

REPORT TO THE CITY

- Section 1. The Commission shall present an annual written report of its activities for the past year to the Mayor and City Council. It may also make appropriate recommendations. The report shall include the following:
- A. The name of the Commission

CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION

- B. The Commission's goals, objectives, and functions
- C. Reference, by category, to all reports and recommendations presented to the City Manager
- D. The number of meetings held
- E. The number of hearings conducted
- F. Attendance records of all members
- G. The amount of money expended in support of the Commission, if known
- H. A list of City personnel who regularly assist the Commission

Section 2. The report should be submitted by March 31st of each year.

ARTICLE XII
AMENDMENT OF BY-LAWS

Section 1. These By-Laws may be amended at any regular meeting of the Commission by majority vote of the Commission, provided that notice of such amendment shall have been given at the previous regular meeting.

CHRONOLOGY OF AMENDMENTS AND ADOPTIONS

Original Adoption: July 30, 2001
Amended: September 24, 2001

Respectfully Submitted,



Bill Howe, Chairperson
Community Police Review Commission

CITY OF RIVERSIDE COMMUNITY POLICE REVIEW COMMISSION

POLICIES AND PROCEDURES Adopted July 30, 2001

I. PURPOSE

To establish guidelines for the receipt and processing of allegations of sworn police employee misconduct in compliance with Chapter 2.76 of the Riverside Municipal Code.

II. SCOPE

These guidelines are applicable in addressing allegations of misconduct by sworn employees of the Riverside Police Department. Complaints must have been filed on or after January 1, 2001, in writing, and within six (6) months of the date of the incident that gave rise to the complaint.

III. AMENDMENT

These Policies and Procedures may be amended by a majority vote of the Commission at a regularly scheduled Commission meeting where the item appears on the published agenda for discussion and/or action.

IV. POLICY STATEMENT

The Community Police Review Commission shall receive, review and investigate allegations of misconduct by sworn Police Department employees regarding use of excessive force, discrimination or sexual harassment in respect to members of the public, the improper discharge of firearms, illegal search or seizure, false arrest, false reporting, criminal conduct or misconduct. When necessary, the Commission will conduct hearings and subpoena witnesses and records to facilitate the fact-finding process. The Commission shall make recommendations to the City Manager and Police Chief and develop appropriate procedures to implement this policy.

The Community, sworn police employees, and staff are urged to give their support, to the extent permitted by law, to ensure the effective implementation of this Policy and these Procedures.

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COMMUNITY POLICE REVIEW COMMISSION

V. DEFINITIONS

The following definitions shall apply to this policy:

- A. Commission:
Community Police Review Commission (CPRC)

- B. Complaint:
Allegation(s) of misconduct against a sworn employee of the Riverside Police Department.

- C. Complainant:
The person filing the complaint.

- D. Discrimination:
An act or omission made on the basis of race, religion, color, national origin, ancestry, age, disability, medical condition, marital status, sex or sexual orientation.

- E. Sexual Harassment:
Engaging in any act of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

- F. Employee of the Riverside Police Department:
Any employee of the Riverside Police Department who is a sworn peace officer.

- G. Executive Director:
The staff liaison person who is appointed by the City Manager to direct the Commission's staff support team.

CITY OF RIVERSIDE COMMUNITY POLICE REVIEW COMMISSION

- H. Excessive Force:
Unreasonable force used by a sworn employee of the Riverside Police Department against a person or persons.
- I. False Arrest:
Arrest made without probable cause that a crime has been committed and that the person in question has committed that crime.
- J. Independent Investigator:
The person(s) retained by the Executive Director to receive, administer, and/or investigate, at the direction of the Commission, allegations of police misconduct.
- K. Misconduct:
An allegation against a sworn employee of the Riverside Police Department, which if true, may constitute a violation of a law, rule or regulation.
- L. Probable Cause:
A condition where facts and circumstances known to the officer warrant a reasonable person to believe that the arrested person has committed a crime.
- M. Subject officer:
A sworn employee of the Riverside Police Department against whom a complaint is filed.
- N. Witness:
Any person who has information relevant to the complaint.

CITY OF RIVERSIDE COMMUNITY POLICE REVIEW COMMISSION

VI. COMMISSION ORGANIZATION

A. Commission:

The Commission is an ordinance-mandated body of nine citizens, which receives, reviews and investigates allegations of misconduct filed against sworn employees of the Riverside Police Department and other functions as defined in City Ordinance No. 6516, as codified in Chapter 2.76 of the Riverside Municipal Code.

B. Resignation – Replacement:

1. In the event of the resignation or removal of a Commission member(s) during the year, the replacement Commissioner shall serve the remaining term of said Commissioner.
2. In the event of the resignation or removal of the Chair during the year, the Vice-Chair shall become the Chair and a new election shall be held for Vice-Chair.

VII. RECEIVING AND PROCESSING COMPLAINTS

A. Where to File:

Complaints of sworn police employee misconduct may be filed with the CPRC Office, the Riverside Police Department, or any other agency so designated by the CPRC.

B. How to File:

Only complaints of sworn police employee misconduct made in writing will be subject to review by the Commission. The CPRC Executive Director, if appropriate, will complete a complaint control form in order to initiate an investigation.

C. Time Element:

Only complaints filed on or after January 1, 2001 and within six months of the date of the alleged sworn police employee misconduct will be investigated by the Commission.

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COMMUNITY POLICE REVIEW COMMISSION

D. Receiving and Forwarding:

Complaints of misconduct, received by the CPRC, the RPD or any other agency so designated by the CPRC, and which have been investigated, shall be forwarded by the Executive Director to the Commission for review and disposition as soon as practical.

E. Complaint File:

The Commission shall maintain a confidential central register of all complaints filed with the CPRC.

VIII. INVESTIGATION

A. Investigation:

Investigation by the Commission will be conducted by the Executive Director or the Executive Director's designee. Assistance may be sought from the Internal Affairs Unit as appropriate in the judgment of the Executive Director or the Executive Director's designee.

B. Review:

After the initial investigation and review by the Riverside Police Department the investigative file along with the investigative report will be forwarded to the Executive Director for review. If the Executive Director determines that the investigation is incomplete, the case will be sent back to the Police Chief with a written explanation. If the investigation is determined to be complete the Executive Director will write a summary of the case and place the case on the next available agenda.

C. Commissioner Notification:

Each commissioner will be sent a copy of the synopsis prepared by the Executive Director. This synopsis is **Confidential** and will be provided to the commissioners no later than ten (10) days before the next scheduled meeting. It is the commissioner's obligation to come into the CPRC office

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COMMUNITY POLICE REVIEW COMMISSION

and read the case file prior to the meeting when deliberations will take place.

D. Deliberation:

Each case will be placed on the agenda of the earliest possible regularly scheduled monthly meeting. The case deliberations will occur in closed session. The Commission may decide to send the case back to the Police Department for further investigation, may have a contract investigator hired by the CPRC conduct a further investigation, may submit a recommended finding to the City Manager and Police Chief or delay a decision for a future meeting.

E. CPRC Investigations:

1. All investigations conducted by the CPRC will be done through the Executive Director.
2. The Executive Director may interview the Complainant, Subject officer(s), and Witness(es), and should collect all relevant information, including all documentation available relative to the investigation.
3. The investigation shall be conducted in a fair, ethical and objective manner. The Executive Director is an agent of the Commission and personal opinions shall not be contained in the report.
4. The Executive Director, or designee, may take a statement from the Complainant, the accused, witnesses, or any other person.

F. Preservation of Records/Evidence:

All files, documents, and related materials shall be kept and preserved for a period of five (5) years after the complaint was filed with the CPRC, the RPD, or any other agency so designated by the CPRC.

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COMMUNITY POLICE REVIEW COMMISSION

G. Investigation Timetable and Report:

To the greatest extent possible, the investigative report whether done by the Riverside Police Department or the CPRC should be completed within 60 calendar days after the filing of the complaint.

The investigative report should include the initial complaint and police report, if applicable, and the Executive Director's summaries of the complaint, statements of witness(es), and evidence. The Executive Director shall have available all materials relevant to the case for review by the Commission.

H. Commission Review, Findings & Recommendations:

The complaint, with the stated allegations of police misconduct and the investigative data, shall be submitted to the Commission for its review. The Commission, in Closed Session, deliberates and determines an appropriate finding for each allegation. Its findings are forwarded to the City Manager for final disposition. The Commission may direct the staff to reopen the investigation for additional information or evidence. The Executive Director shall be present to respond to questions from members of the Commission.

With five affirmative votes, the Commission may elect to hold a hearing. The full Commission will conduct this hearing. The Commission may request or subpoena the complaining parties, witnesses, and involved sworn Police Department employees to appear before it to answer questions or provide information.

The Commission findings shall be referred to the City Manager for final disposition. The Complainant and Subject officer shall be notified of the final disposition by the City Manager.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

IX. HEARINGS

A. Conducting the Hearing:

The hearing shall be open to the extent permissible by law. The Commission shall follow an informal hearing procedure in conducting its investigation of individual complaints. Citizen or Police Department employee witnesses shall be questioned by the Commission or staff only. There shall be no cross-examination by sworn Police Department employees, citizen witnesses, the Complainant, or their respective counsel.

All records relating to the investigation pertinent to the complaint shall be made available to the Commission to the extent permissible by applicable federal, state and local law and applicable contractual agreements.

B. Subpoenas:

Subpoenas shall be issued by the Commission upon the affirmative vote of six (6) Commissioners and shall be served by the Executive Director or designee.

C. Recommendations / Findings:

The Commission shall make its findings, which may include, but not be limited to, the following:

1. Unfounded:

The alleged act did not occur.

2. Exonerated:

The alleged act occurred but was justified, legal and proper.

3. Not Sustained:

The investigation produced insufficient information to prove or disprove the allegation.

CITY OF RIVERSIDE

COMMUNITY POLICE REVIEW COMMISSION

4. Sustained:
The Department member committed all or part of the alleged acts of misconduct or poor service.

5. Misconduct Noted:
The Department member violated a section of the Department Policies, Rules or regulations not originally alleged in the complaint.

6. Inquiry:
If, during the investigation, it is determined that a citizen is merely requesting clarification of a policy or procedure, that complaint, with the concurrence of the investigating supervisor's commanding officer, may be considered an Inquiry.

NOTE: If, in the course of Commission deliberations, the Commission finds that consideration should be addressed to policy, training, supervision, or other issues, the Commission may refer such suggestions to the Police Chief and City Manager.

X. DISTRIBUTION OF RECOMMENDATIONS / FINDINGS

The Commission shall send its findings to the City Manager and the Police Chief.

XI. CONFIDENTIALITY

- A. Commissioner Limitation:
All matters shall be kept confidential as required by law.

- B. Penalty for Violation:
Failure to comply with this regulation shall be grounds for removing a Commissioner from the Commission.

**CITY OF RIVERSIDE
COMMUNITY POLICE REVIEW COMMISSION**

CHRONOLOGY OF AMENDMENTS AND ADOPTIONS

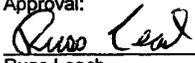
Original Adoption: July 30, 2001

Respectfully Submitted,



Bill Howe, Chairperson
Community Police Review Commission

Section C

Effective Date: 1/9/95 Revision Date: 1/9/95 Revision 2 Date: 4/29/2002 Approval:  Russ Leach Chief of Police
--

4.12 PERSONNEL COMPLAINT POLICY:

A. PURPOSE:

To establish a sound procedure to investigate complaints of poor service or misconduct against members of the Department. The investigation must be thorough and impartial in order to protect the rights of the employee and maintain the Department's high level of integrity and efficiency.

B. DEFINITIONS:

1. **Complaint:** Any allegation of poor service or misconduct made by a member of the public or employee against a member of the Department is a complaint. Complaints of misconduct must allege a violation of Federal, State or local law, or Riverside Police Department policy or procedure.

Complaints lodged by members of the public will be classified as EXTERNAL COMPLAINTS. Complaints lodged by employees will be classified as INTERNAL INVESTIGATIONS/COMPLAINTS.

2. **CATEGORY 1 Complaints:** All complaints which involve:

- Excessive Force
- False Arrest
- Discrimination/Harassment
- Criminal Conduct

3. **CATEGORY 2 Complaints:** All complaints which involve:

- Poor Service
- Discourtesy
- Improper Procedure
- Conduct Unbecoming (CUBO)
- Infractions, Traffic Violations, and Riverside Municipal Code Violations
- Other

4. **Findings:** Each allegation in a complaint shall have one of the following findings:

- **Unfounded:** The alleged act did not occur.
- **Exonerated:** The alleged act occurred but was justified, legal and proper.
- **Not Sustained:** The investigation produced insufficient information to prove or disprove the allegation.
- **Sustained:** The Department member committed all or part of the alleged acts of misconduct or poor service.

- Misconduct Noted: The Department member violated a section of the Department policies, rules or regulations not originally alleged in the complaint.

5. **Inquiry:** If, during the investigation, it is determined that a member of the public is merely requesting clarification of a policy or procedure, that complaint, with the approval of the investigating supervisor's commanding officer and concurrence of the Personnel Services/Internal Affairs Commander or Internal Affairs Lieutenant, may be considered an **Inquiry**. The inquiry box on the Complaint Control Form shall only be checked by the Personnel Services/Internal Affairs Commander or Internal Affairs Lieutenant, and will be accompanied by his/her signature.

C. COMPLAINT RECEPTION AND ROUTING:

1. The commander, or designee, of each Department facility open to the public shall ensure that Personnel Conduct Reporting Procedure Brochures and Complaint Control Forms are available to the public in that facility.
2. Every employee has a duty to refer members of the public to open police facilities so that they can obtain Personnel Conduct Reporting Procedure brochures and Complaint Control Forms upon request. Employees on-duty in those facilities shall assist members of the public in obtaining those documents upon request.
3. External complaints may be filed with any supervisory member of the department or directly with the Community Police Review Commission.
4. Non-supervisory employees shall immediately refer complainants to an on-duty supervisor. Whenever possible, civilian supervisors shall refer complaints against sworn personnel to an on-duty sworn supervisor. Supervisors shall accept complaints in writing, in person, by telephone, or from anonymous persons. The purpose for this is to encourage members of the public or employees to bring forward legitimate grievances regarding poor police service or misconduct by Department members. Members of the public and members of the Department shall not be dissuaded in any manner from making a complaint.
5. Supervisors shall immediately record complaints sufficiently serious to warrant investigation on a Complaint Control Form (Appendix A) and obtain a case number.
6. Only one subject employee and the allegations against that employee shall be listed on each Complaint Control Form. The same case number shall be used on multiple Complaint Control Forms arising out of the same incident. In cases where there are multiple Complaint Control Forms arising from the same incident, redundant information need not be repeated on each of them.
7. The supervisor accepting an external complaint shall give the blue copy of the Complaint Control Form to the complainant, if present, and immediately fax a copy of the Complaint Control Form to the Office of Internal Affairs. The supervisor shall forward all remaining copies of the Complaint Control Form to Internal Affairs by the next business day.

NOTE: In the case of an internal investigation the supervisor shall forward all copies of the Complaint Control Form to Internal Affairs.

8. Case numbers are generated by the Computer Aided Dispatch (CAD) system and shall be obtained by the supervisor taking the complaint by contacting the Communications Bureau. Case numbers are deciphered as follows:

- PC Indicates External Personnel Complaint
- PA Indicates Internal Complaint / Investigation
- 01 Year (First two numerical digits, i.e., "01")
- 123 Julian Date (Third, fourth, & fifth numerical digits, i.e., "123")
- 001 Report File Number (Last three numerical digits, i.e., "001")

9. Each calendar day, the Communications Bureau shall produce a computer printed log of all complaint case numbers and forward it immediately to Internal Affairs. For external complaints, the Communications Bureau complaint log shall contain only the case number, complainant's name, address and telephone number, and the name of the supervisor obtaining the case number. For internal complaints, the Communications Bureau complaint log shall contain only the case number and the name of the supervisor obtaining that case number.
10. Internal Affairs shall log all complaints by the assigned number and complainant's name and track them. For all external complaints, Internal Affairs shall forward copies of the Communications Bureau Complaint Logs and Complaint Control Forms to the Executive Director of the Community Police Review Commission.
11. Internal Affairs shall determine whether an external complaint is to be investigated as a complaint or inquiry, and will be responsible for assignment of Category 1 complaints for investigation. Category 2 complaints will generally be handled at the division level, but may be handled by Internal Affairs.
12. Internal Affairs shall retain the original copy of the Complaint Control Form for tracking purposes. Two copies of the Complaint Control Form will be forwarded to the captain of the command assigned to investigate the complaint. One copy shall be a work copy to be used by the investigating supervisor. The second copy is to be given to the subject employee, except in cases of internal complaints or when such notification would compromise the investigation.
13. Applicable to external complaints against sworn personnel, and effective 01/01/96 section 148.6 was added to the Penal Code, to read:

148.6. (a) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the report to be false, is guilty of a misdemeanor.

(b) Any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the following information advisory, all in boldface type:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

Complainant

14. Section 148.6 PC does not apply to complaints made against civilian members of the Department.
15. A member of the public who makes a complaint in person against an officer shall be required to read and sign the advisory statement. If the complainant refuses to sign, the supervisor shall indicate "refused" in the signature block and initial the statement. The supervisor shall still accept the complaint. The complainant will be given his/her blue copy of the complaint. The white copy of the complaint and the advisory statement routing procedure will remain the same.
16. If an external complaint is taken by telephone, the complainant shall be advised that they will receive a copy of the complaint and advisory statement for signature in the mail. The routing procedure will remain the same. The Office of Internal Affairs will mail the statement to the complainant for signature. A stamped self-addressed envelope will be enclosed for the complainant to return the signed advisory statement to Internal Affairs.
17. Upon receipt of the Complaint Control Form, Internal Affairs will notify the external complainant, in writing, that the complaint has been received and that an investigation has been initiated. The blue copy of the Complaint Control Form will also be mailed to the complainant, if it has not already been provided to them by the accepting supervisor.
18. Completed complaint investigations shall be forwarded through the chain of command to Internal Affairs.

D. COMPLAINT INVESTIGATION:

1. The supervisor accepting the complaint shall be responsible for accurately and fully completing the Complaint Control Form. The supervisor shall obtain preliminary statements from the complainant and any immediately available witnesses. When practicable to do so, all interviews will be tape recorded. If an interview is not tape recorded, the supervisor must provide a written explanation. Additionally, the supervisor shall collect and preserve any physical evidence that is readily available or may be time or weather sensitive.
2. The supervisor accepting the complaint must clearly, accurately and completely document each allegation made by the complainant on the Complaint Control Form. It is essential that the specifics (date, time, location) of the allegation(s) are obtained and included on the Complaint Control Form. If additional space is required, supervisors shall use a continuation page(s).

3. Internal Affairs shall be responsible for overseeing all external and internal complaint investigations and ensuring that they are completed in a thorough and timely manner. The Personnel Services/Internal Affairs Commander and Internal Affairs Lieutenant shall have the authority to assign investigations to other divisions or to assign Internal Affairs personnel to conduct investigations.
4. The supervisor first becoming aware of allegations of criminal conduct by a Department member shall initiate appropriate police action to ensure the safety of the Department member and the public and shall immediately notify his/her Watch Commander. The Watch Commander will then make the appropriate notifications.
5. The Department has established a goal of completing Category 2 complaint investigations within thirty (30) calendar days from the date assigned. The Division Commander then has five (5) calendar days to submit the completed investigation with a Memorandum of Finding to Internal Affairs. If additional time is required, the Division Commander will request approval for an extension from the Personnel Services/Internal Affairs Commander.
6. The Department has established a goal of completing Category 1 complaint investigations within sixty (60) calendar days from the date assigned. The Division Commander then has five (5) calendar days to submit the completed investigation with a Memorandum of Finding to Internal Affairs. If additional time is required, the Division Commander will request approval for an extension from the Personnel Services/Internal Affairs Commander.
7. All recognized investigative methods for determining the facts surrounding a complaint will be used. Tape recorded interviews will be conducted with the complainant, employee(s), and all witnesses when practicable. If an interview is not tape recorded, the supervisor must provide a written explanation. To avoid having to interview the Department member against whom the complaint is lodged more than once, it is recommended the employee be the last person interviewed.
8. Investigating supervisors shall separately set forth and address each issue raised in the complaint and specify the applicable policy sections.
9. Investigating supervisors shall thoroughly investigate, evaluate, and specifically address in their investigation report the rationale and actual reason for any stop or search related to the complaint.
10. When applicable, investigating supervisors shall make credibility determinations on the complainant(s), each witness, and subject employees and expressly set forth the rationale for those determinations in their investigative report. If such credibility determinations are not applicable, the investigating supervisor shall explain why in his/her investigative report.
11. The subject employee's personnel history, including their existing record of complaints, shall be considered in making a determination of their credibility. A copy of the employee's Internal Affairs complaint history summary shall be included as an attachment to the investigative report.

E. COMPLAINT INVESTIGATION FINDINGS, REVIEW AND APPROVAL:

1. Investigating supervisors shall not make findings in their investigative report as to the complaint allegations.

2. Lieutenants/managers charged with reviewing investigations conducted by sergeants/supervisors shall make findings and explain their rationale as to each of the complaint allegations. The specific policies applicable to each of the complaint allegations must be listed and addressed. They will submit those findings and rationale on a "Memorandum of Findings" which will accompany all completed complaint investigations.
3. In cases of sustained allegations, the affected Division Commander shall cause to be prepared a separate "Letter of Transmittal" stating each of the allegations, the applicable policies, findings, and administrative insight.
4. Completed complaint investigations will be routed through the chain of command to Internal Affairs. Each level of management shall review the completed investigation for objectivity, thoroughness, timeliness, and compliance with Department policies and procedures.
5. Each command officer responsible for reviewing the investigation shall provide a written statement of concurrence or disagreement with the conclusions and findings of the investigation. If there is a disagreement, a full written explanation of the reason(s) for the disagreement shall be provided.
6. Command Personnel charged with reviewing investigations conducted by sergeants/supervisors who directly supervise the employees that are the subject of a complaint shall review the investigation to ensure that a fair, unbiased, and thorough investigation was conducted.
7. Internal Affairs shall obtain final approval of the complaint investigation from the Chief of Police or designee.
8. Investigating supervisors and reviewing managers shall only discuss or disclose investigative information with superior officers or members currently assigned to Internal Affairs.
9. Once the completed investigation is approved, in external complaint cases where the subject employee(s) is a sworn officer, Internal Affairs will forward the investigative report to the Executive Director of the Community Police Review Commission for their review as per Chapter 2.76 of the Riverside Municipal Code.
10. Upon receipt of a finding from the City Manager's Office in cases where the subject employee(s) is a sworn officer, the subject employee's commanding officer, or designee, shall review the investigation and findings with the involved Department member(s). The commanding officer will have the Department member(s) read and sign a copy of the investigative report. Department members will not be given a copy of an investigative report unless it is to be used as a basis for disciplinary action against that member.
11. The City Manager will be responsible for notifying the external complainant, in writing by certified mail, within thirty (30) days of the disposition of the complaint. Additionally, Internal Affairs will notify, in writing, the Department member against whom the complaint was lodged and the member's commanding officer of the disposition of the complaint upon receipt of the finding from the City Manager.
12. In cases of internal investigations or external complaints where the subject employee(s) is a civilian, the completed investigative report will be forwarded through the chain of command to the Chief's Office via Internal Affairs and the Personnel Services/Internal Affairs Commander.

The subject civilian employee's commanding officer, or designee, shall review the investigation and findings with the involved Department member(s). The commanding officer will have the Department member(s) read and sign a copy of the investigative report. Department members will not be given a copy of an investigative report unless it is to be used as a basis for disciplinary action against that member.

13. If a Department member disagrees with the disposition or finding(s) of the investigation, he/she may submit a written rebuttal within thirty (30) days to the Personnel Services Commander. The Department member's written rebuttal will be filed with the completed investigation.

F. COMPLAINT INVESTIGATION FILES:

Internal Affairs will be responsible for maintaining a comprehensive file of all complaints and inquiries received by the Department for a period of five (5) years.

G. PITCHESS MOTION:

A Pitchess Motion is a motion for discovery of peace officer personnel records where the defense counsel is attempting to establish a custom, habit or practice of excessive force, untruthfulness or false arrest against an arresting officer. Pitchess Motions generally are filed in cases where the defendant is charged with violating Penal Code sections 148, 241, 243, 245, or similar statutes.

1. Internal Affairs will handle all Pitchess Motions.
2. Upon the filing of a Pitchess Motion, Internal Affairs will promptly notify, in writing, the Department member whose records are being sought for discovery. Internal Affairs will also notify the involved officer(s) what information, if any, was ordered released. The Department member(s) whose file was the subject of a Pitchess Motion will be given the opportunity to review the information which was released, prior to testifying.
3. If the affidavit filed by the defense attorney is found by the judge to fulfill certain legal requirements, the judge will review the records requested which include complaint investigations "in camera" (judge's chambers).
4. In those cases where the judge feels that one or more of the complaints are relevant to the case in question, the judge may order the release of the names, addresses and telephone numbers of the complainants and any witnesses identified in those investigations, as well as the disposition of the complaint.

H. COMPLAINT PROCEDURE COMPLIANCE AUDIT:

Internal Affairs will be responsible for conducting random testing at least three times a year to ensure compliance with the Personnel Complaint Policy.

1. The Internal Affairs Lieutenant may solicit the cooperation of any person to act on behalf of the Department posing as a member of the public requesting to file a personnel complaint or requesting information on the complaint procedure. The details of the fictitious complaint shall be sufficiently serious to cause a supervisor to complete the Complaint Control Form.
2. Upon receipt of the completed Complaint Control Form, Internal Affairs will immediately make the necessary changes to the Complaint Control Log to reflect the complaint as an audit.

- 3. The Internal Affairs Lieutenant will review the audit complaint for completeness, accuracy, and compliance with the complaint policy and procedure. A report summarizing the results of the audit will be prepared and forwarded to the Chief of Police.**
- 4. Failure of any supervisor to follow the complaint procedure shall be referred to that supervisor's Division Commander for appropriate action. This section shall also apply during any testing or audit exercise.**

Section D

ADMINISTRATIVE INVESTIGATION

This guide was prepared by the Office of Internal Affairs to assist supervisors investigating complaints of misconduct. However, there are differences in each complaint, investigation and employee which prohibits a strict protocol. Therefore, this guide serves only as a source of direction.

In all cases, however, the investigating supervisor must be unbiased and objective. Having an open mind, a desire to seek only the truth, the ability to ask the “tough” questions and the perseverance to answer all of the questions are some attributes you must possess to successfully investigate an incident. An incomplete investigation is not only a disservice to the community and the Department, but it can disassociate the employee who will no longer have any trust or faith in the system.

Your opinion of the lack of seriousness of the investigation will often be completely opposite to the employee’s concern. Some employees will dwell upon a complaint to the point that it will affect performance. The Department has set goals for the timeliness of completing the investigation. It is incumbent upon you to meet those time demands without sacrificing or compromising your investigation.

Many supervisors are unfamiliar with the administrative system and they can jeopardize the Department’s ability to resolve an investigation through a careless approach. If you have any questions about any administrative issue that is not addressed in this text contact the Office of Internal Affairs.

Remember, the burden of proof in an administrative investigation is a **preponderance** of the evidence and not beyond a reasonable doubt as in a criminal case.

PREPARATION

The first step in any complaint investigation is to evaluate the complaint. There are several issues to consider:

- Determine the issues to be addressed.
- Motive of the complainant.
- What evidence exists?
- What is the time required to complete the investigation?

ORGANIZING THE INVESTIGATION

Once you have an initial understanding of the complaint, it is time to organize your investigation. By outlining some brief steps, you will have an investigative path to follow. Some of the steps are:

- Review the complaint. Contact the accepting supervisor if the complaint is not clear.
- What are the specific allegations? Is there criminal conduct?
- Verify the existence of the policy or rule in question.
- Review the associated police investigation and related documents such as the communications printout.
- Identify any discrepancies in the complaint and the reports.
- Analyze the evidence, lack of evidence or seek evidence that was not secured.
- Who should be questioned and in what priority?
- What questions should be asked?
- Who are the witnesses, where are they and are they available? Do they have any motive?
- Visit the scene. All too often witness statements are taken without the investigator having any knowledge of obstructions or surroundings. Was weather or lighting a factor? Consider photographs of the scene if none were taken.
- Prepare a photo line-up if the identity of the employee is unknown.

PREPARING FOR THE INTERVIEWS

The most important and often the most under prepared part of the investigation is the interview.

It is also the most time consuming. Never schedule yourself to have to end an interview. You should be mentally prepared to remain in the interview at least twice as long as you think it will take.

Before you interview anyone involved in the complaint, you must be thoroughly prepared. That means that you have a thorough understanding of the complaint, have an above average knowledge of administrative procedures, specifically the Peace Officer's Bill of Rights, and have reviewed the questions that you have outlined. By outlining the questions that pertain to the complaint, you will not be as likely to forget an issue if the involved employee turns the interview in a completely unforeseen direction.

Know the history of the complainant, the witnesses, involved employees and the accused employee. While this does not diminish their credibility, it can assist you in determining motive and provide a direction and method to be used during the interview.

Remember that the interview can be stressful for an employee or a witness and having to reschedule subsequent interviews because you overlooked an issue or were unprepared is unprofessional.

Generally, the proper sequence for interviewing is:

- Complainant.
- Civilian witnesses.
- Other agency employees.
- Other involved agency employees.
- The accused employee.

WITNESSES AND COMPLAINANTS

Every reasonable effort should be made to ensure that all witnesses to the incident and allegation are located and interviewed. It is also equally important to rule out persons who may come forward later and purport themselves to be witnesses.

Some sources for witnesses are:

- The complainant. If arrested, the associates.
- Police reports, communications records and audio tapes.

- Canvassing the area. Include any associated but unrelated areas in the canvass. Examine booking logs, hospital rosters or duty rosters for personnel who may have been in the area but who have not come forward.
- Security video tapes.

Document all your successful or unsuccessful attempts to locate and contact any witnesses.

Research all the witnesses. Not only is this helpful in planning an approach, but it can give you an indication for any possible motives.

At the very least, you should examine:

- Criminal and driving records. Since the investigation is administrative, it excludes any CII inquiry.
- Relationship to the complainant or other witnesses.
- Relationship to the employee.
- Medical or psychological history if appropriate.

Obtain photographs of witnesses and the complainant if the investigation is complex and involved and identification is essential. Drivers' license photos are the best source, however, booking photos can be used with due caution not to prejudice the viewer.

CONDUCTING THE INTERVIEWS

As stated, the interview is the most essential part of the administrative investigation. Results from the interview are indicative of the skill, professionalism and preparation of the investigator. It can also be a reflection of the investigator's biased, slanted and opinionated orientation.

There are two keys to remember - civilian witnesses are unaware of the skills and techniques of a trained investigator and knowledgeable agency employees can be compelled to give complete and truthful statements.

The interview is too important to "wing it" without a plan. First, you must determine the objectives of the interview. Obviously, it is to get the facts of the allegation. Second, you must standardize your questions to address the following factors:

- The specific details of each allegation.
- Identify each person involved and their specific role or degree of participation.
- Resolve any inconsistencies, discrepancies or conflicts with statements and physical evidence.
- Uncover underlying motives or reasons for filing the complaint, not being truthful, or backing away from full cooperation with the investigation.

By preparing a list of standard questions to ask each person, you can avoid the issue of not being fair and objective.

Normally interviews can be conducted by one person. This is particularly true if the interview is taped. However, there are some instances when a second investigator should be involved:

- As a monitor for a criminal interview.
- Politically sensitive or potentially explosive interviews.
- In matters involving sexual improprieties, minor children or domestic violence.

Remember, if more than one investigator is present during an interview, one must be the lead with the roles clearly defined prior to entering the room.

Schedule the witness interviews at a time and place similar with the allegation. If the violation is occurring at the same time as the complaint, an immediate unscheduled interview would be necessary. However, most can be scheduled in advance and should be conducted in person.

Tape record all interviews, including those conducted by telephone or videotape. Avoid any unexplained breaks, identify all persons present, identify normal breaks and avoid off recording conversations.

Each employee is entitled to a representative during the interview. The role of the representative is to be an observer and an advocate. Representatives or attorneys should not be allowed to answer the "tough" questions for the employee. To limit their active involvement your questions should avoid the following:

- Questions that are compounded or confusing.
- Questions which may constitute an unwarranted intrusion into the employee's right of privacy such as medical records or tax returns.
- Questions which do not pertain directly, or sometimes even indirectly, to the allegations which are the subject of the interrogation.
- Questions which may intrude into privileged areas such as conversations the employee may have had with his/her spouse, counselor, clergyman, attorney, therapist or the employee's representative.
- Questions which would tend to mislead the employee by misrepresenting prior facts or circumstances, or statements of other persons or prior statements by the employee.
- Questions which are argumentative.
- Questions which call for guesswork, surmise or conjecture on the part of the employee.

INTERVIEW FORMAT

All administrative interviews shall use the following introductory format:

- Date, time and location of the interview.
- Note that the interview is being recorded.
- Who is conducting the interview and his/ her current assignment.
- Persons present during the interview.
- Purpose of the interview.
- Nature of the investigation.
- That the employee is ordered to answer questions truthfully, honestly and completely.

INTERVIEW TECHNIQUES

General

- Identify any physiological or psychological limitations on the witnesses' ability to perceive events or give a reasonable statement.
- At the beginning of the interview, allow witnesses to explain the entire incident in their own words without interruption. You can revisit specific areas in conjunction with your preplanned questions.
- It's very difficult to describe or capture physical actions on a tape. If witnesses are describing an area or location, they should use a sheet of paper. If they are describing a physical hold, position of other witnesses or actions of any involved participant, consider videotaping the interview.
- You must ask the right question to get the right answer. They must be specific and direct. Do not ask general questions for specific allegations.
- Interviews are not always congenial as the person may be extremely emotional. They may be uncomfortable with being with a member of the agency against whom they are making a complaint. If there is conflict, consider rescheduling the interview, recap the statement as a method for a break or break to allow the person to regain their composure.
- Make note of body language, pauses, looking from side to side or other indicators.
- At the conclusion, ask the interviewee if they have any additional information or questions that were not covered.

Some Common Pitfalls

- Leading questions.
- Failure to verify answers.
- Refreshing a witness' memory.
- Badgering the interviewee.

- Failure to tape record every witness.
- Calling a person a liar.
- Engaging in a confrontation with the witness or employee.
- Helping a witness to speedup an interview.
- Failure to reenact the alleged misconduct with each witness at the scene.

THE INTERVIEW

Complainant

Interviewing the complainant is not any different from interviewing any other person involved in the investigation. Read the complainant's statement to him and ensure that it is accurate and complete. Conduct your interview using the questions you have developed as a road map.

Before concluding the interview, request the following if they are warranted and have not already been obtained:

- Photographs of the alleged injury whether or not any is visible.
- Medical release.
- Additional witnesses.
- Reason for any significant time delay in making any complaint.
- Availability for follow-up.

Agency employees who are not accused.

When employees who are not being accused of misconduct are being interviewed, the ground rules and procedures are the same as any witness. Agency employees, however, should be allowed to review their own reports prepared in conjunction with the incident giving rise to the allegation. These employees do not have the same rights as accused employees in regard to disclosure of investigative materials. They should be reminded of their obligation to fully and truthfully respond to questioning and that their failure to do so could be deemed insubordination and result in administrative discipline.

If the employee being interviewed makes a self-incriminating statement regarding a criminal offense or a statement which may lead to disciplinary action, the interview should be terminated. The employee should be advised why the interview is being stopped and advised of possible further actions. At this time the investigator should follow the guidelines for an accused employee.

At the conclusion, the investigator must inform the employee that the interview is confidential and admonish the employee not to discuss the interview with anyone except a representative or attorney if appropriate.

If the employee is believed to have given a false or a deliberately misleading statement during the interview to obstruct the administrative investigation, a new internal investigation should be initiated. This can normally be eliminated or minimized through skillful interview techniques and challenging obviously evasive and avoidance methods. You must confront employees with obvious discrepancies or contradictions.

Accused Employee

This interview is the most critical. It should be the last interview of the investigation and should be designed to answer or respond to all of the allegations. It is important that you limit the necessity to conduct any follow-up interviews with the accused employee which is often interpreted as intimidating or harassing.

By this time in the investigation you should be familiar with the accused employee's personnel file, reputation, assignment history, training or qualification records if appropriate and prior discipline. You must be familiar with the employee's contractual, statutory and constitutional rights. There is no excuse for testifying later at arbitration that you did not know what *LYBARGER* means.

You should notify the employee of your intention to interview him/her, the allegation and a time and place for the interview. If the employee requests representation, the interview should be scheduled to accommodate that request. However, serious allegations may require that the employee be interviewed as soon as practical and not as a matter of mutual convenience.

INVESTIGATION BIFURCATION - CRIMINAL OR ADMINISTRATIVE

If the complaint is both an allegation that the Department rules were violated and an allegation of criminal conduct, the investigation must be bifurcated. The underlying facts in each case must be evaluated to determine the procedure to follow and for purposes of making a decision on the use of an administrative

investigation or criminal investigation or both.

Cases involving allegations of criminal misconduct will first be investigated by Investigations. Internal Affairs will monitor these investigations and obtain copies of all criminal reports.

Criminal investigations will always have priority over administrative investigations. Once the criminal investigation is completed, it will be incorporated into the administrative investigation.

The goal of the criminal investigation is the prosecution of appropriate cases on behalf of the People. The goal of the administrative investigation is to determine whether a department rule has been violated and whether the employee committed the violation.

ELEMENTS

Administrative

No right to silence

IA investigation

Confidential
pursuant to PC 832.7

Department disciplines

Right to criminal report

Criminal

Right to silence

Criminal investigation

May not be confidential

DA may prosecute

No right to administrative
investigation or report

LYBARGER AND MIRANDA

Most, if not all, of the investigations that you will conduct will not require a *MIRANDA* admonishment. Those Category 1 investigations are normally conducted by Internal Affairs in conjunction with a Detective from General Investigations. However, if you are assigned an investigation which may be construed as a potential criminal allegation, you should proceed cautiously when it comes to admonishing an accused employee of his/her rights. However, police employees are very familiar with these admonishments and will probably demand both *MIRANDA* and *LYBARGER*. Therefore, prior to conducting any interview with an accused employee, the investigator must be sure of the direction of the investigation.

If the decision has been made by the Chief's Office or the Office of Internal Affairs to investigate the allegation as administrative, the investigator will admonish the employee of both *MIRANDA* and *LYBARGER* rights from the form. This should be done on tape and the employee asked to sign the form and verbally acknowledge his/her rights. The form will become part of the permanent package.

If the employee refuses to cooperate during the interview after being advised of the *LYBARGER* admonishment, he/she should be reminded of their obligation to fully and truthfully respond to questioning and that their failure to do so could be deemed insubordination and result in administrative discipline. If the employee continues to refuse to cooperate, you should request that the employee's commanding officer admonish him/her.

Remember, if the employee is compelled to give a statement, the criminal investigator shall not be present during the interview nor can he/she become aware of any information obtained during the interview.

If you are assigned to investigate only a criminal allegation, you should proceed as you would with any other criminal investigation dependent upon the response to *MIRANDA*.

If you are assigned to investigate only a violation of Department policy or procedure, you may *LYBARGER* the employee if he/she declines to respond during the interview.

The admonition of rights and the appropriate time to do so cause the most confusion for supervisors and investigators. That is why it is important to have preplanned your interview. You can be sure that if the employee is accompanied by an attorney or representative, they will demand both *MIRANDA* and *LYBARGER*. However, you should not automatically shield the employee by *LYBARGER* if he/she waives *MIRANDA* or declines to respond. If you have any doubt, you should seek advice from a superior or the Office of Internal Affairs.

REVIEW OF PROCEDURAL BILL OF RIGHTS

When does it apply?

- Applies to a public safety officer who is under investigation and subjected to interrogation by his/her supervisor, or any other employee of the public safety department.
- Does not apply to any interrogation of an officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with a supervisor or any other

employee of the public safety department, nor shall this apply to any investigation concerned solely and directly with alleged criminal activities.

Interrogation shall be conducted under the following conditions if it could lead to punitive action:

- Punitive action is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.
- Interrogation shall be conducted at a reasonable hour, preferably at a time when the officer is on duty, or during the normal waking hours for the officer, unless the seriousness of the investigation requires otherwise.
- If the interrogation does occur during off duty time, the officer shall be compensated and the officer shall not be released from employment for any work missed.
- The officer under investigation shall be informed prior to such interrogation of the name, rank and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation.
- All questions directed to the officer shall be asked by and through no more than two interrogators at one time.
- The officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
- The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated.
- The officer under interrogation shall be allowed to attend to his/her own personal physical necessities.
- The officer under investigation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action.

- No officer shall be lent or temporarily reassigned to a location or duty assignment if a sworn member of his/her department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.
- No promise or reward will be made as an inducement to answering any questions.
- The employer shall not cause the officer under interrogation to be subjected to visits by the press or news media without his/her express consent nor shall his/her home address or photograph be given to the press or news media without his/her express consent.
- The complete interrogation of an officer may be recorded. If a tape recording is made of the interrogation, the officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The officer being interrogated shall have the right to bring his/her own recording device and record any and all aspects of the interrogation.
- The officer shall be entitled to any transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed confidential. No notes or reports which are deemed confidential may be entered into the officer's personnel file.
- If prior to or during the interrogation of an officer it is deemed that he/she may be charged with a criminal offense, he/she shall be immediately informed of his/her constitutional rights.

When can the officer have a representative?

- Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters which are likely to result in punitive action against an officer.
- The officer, at his/her request, shall have the right to be represented by a representative of his/her choice who may be present at all times during such interrogation.

Representative

- Shall not be a person subject to the same investigation.

- Shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters.

Please do not hesitate to contact the Office of Internal Affairs for guidance at any time during your investigation. Most, if not all of your questions, have already been asked and answered during prior investigations. If the information is not available, we will contact the City Attorney's office for direction. Never move forward if you are not sure what you are doing. Remember, it is your responsibility to know, and with all the resources available day or night, there is no excuse for not doing it right. The citizen expects it, the Department demands it and the employee respects it.

Investigative Report Format

A Riverside Police Department Complaint Control Form shall be completed and a personnel complaint (PC) or internal investigation (PA) file number obtained from Communications. A copy of the Complaint Control Form is attached.

The investigation shall use the Internal Affairs Investigation format. A copy of the Internal Affairs investigation format is attached. Also attached is a copy of the Riverside Police Department Employee Admonishment of Rights form. This form includes the Riverside Police Department Grant of Immunity (Lybarger) admonishment.

Upon completion, a Mandatory Report Routing form shall be completed and the investigation routed through the Chain of Command.

Sources:

Internal Affairs Manual - CPOA
Skelly - Discipline and Due Process Manual - CPOA
Public Safety Officers Procedural Bill of Rights Act